



State of New Hampshire Department of Health and Human Services

REQUEST FOR PROPOSALS RFP-2018-BDS-11-CONSU

FOR

Consulting Services for Modernized Developmental Services IT Systems

March 9, 2018



Table of Contents

| | |
|--|----|
| 1. INTRODUCTION | 4 |
| 1.1. Purpose and Overview | 4 |
| 1.2. Request for Proposal Terminology | 5 |
| 1.3. Contract Period | 6 |
| 2. BACKGROUND AND REQUIRED SERVICES | 7 |
| 2.1. New Hampshire Department of Health & Human Services, Bureau of Developmental Services ... | 7 |
| 2.2. New Hampshire DHHS Division for Children, Youth and Families (DCYF), Bureau of Field Services | 10 |
| 2.3. Elderly and Adult Services..... | 12 |
| 3. STATEMENT OF WORK | 14 |
| 3.1. Concept of Operations..... | 14 |
| 3.2. Potential Solutions..... | 14 |
| 3.3. Project Stakeholders..... | 15 |
| 3.4. Previous Project Research | 17 |
| 3.5. Scope of Services | 17 |
| 3.6. Project Deliverables & Acceptance Criteria Document | 22 |
| 3.7. Conceptual System Design Document..... | 23 |
| 3.8. Required Vendor Skills | 23 |
| 3.9. Supporting Market Research Report and Recommended Solutions | 24 |
| 3.10. Risks and Assumptions..... | 24 |
| 3.11. Project Duration..... | 25 |
| 4. Project Deliverables | 25 |
| 5. Staffing | 26 |
| 6. FINANCE (RESERVED) | 27 |
| 7. PROPOSAL EVALUATION | 27 |
| 7.1. Technical Proposal | 27 |
| 7.2. Cost Proposal | 27 |
| 8. PROPOSAL PROCESS..... | 28 |
| 8.1. Contact Information – Sole Point of Contact..... | 28 |
| 8.2. Procurement Timetable | 28 |
| 8.3. Letter of Intent..... | 28 |
| 8.4. Bidders’ Questions and Answers | 29 |
| 8.5. RFP Amendment | 30 |
| 8.6. Proposal Submission | 30 |
| 8.7. Compliance | 30 |
| 8.8. Non-Collusion..... | 30 |
| 8.9. Collaborative Proposals | 30 |
| 8.10. Validity of Proposals | 30 |
| 8.11. Property of Department | 31 |
| 8.12. Proposal Withdrawal | 31 |
| 8.13. Public Disclosure | 31 |
| 8.14. Non-Commitment..... | 32 |
| 8.15. Liability | 32 |
| 8.16. Request for Additional Information or Materials | 32 |
| 8.17. Oral Presentations and Discussions | 32 |



| | |
|--|----|
| 8.18. Contract Negotiations and Unsuccessful Bidder Notice | 32 |
| 8.19. Scope of Award and Contract Award Notice | 33 |
| 8.20. Site Visits | 33 |
| 8.21. Protest of Intended Award | 33 |
| 8.22. Contingency | 33 |
| 9. PROPOSAL OUTLINE AND REQUIREMENTS | 34 |
| 9.1. Presentation and Identification | 34 |
| 9.2. Outline and Detail | 35 |
| 10. MANDATORY BUSINESS SPECIFICATIONS | 40 |
| 10.1. Contract Terms, Conditions and Forms | 40 |
| 11. ADDITIONAL INFORMATION | 40 |
| 11.1. Appendix A – Exceptions to Terms and Conditions | 40 |
| 11.2. Appendix B – Contract Minimum Requirements | 40 |
| 11.3. Appendix C – Deliverables Schedule and Pricing Sheets (Electronic version available) | 40 |
| 11.4. Appendix D - Management Questionnaire | 40 |



1. INTRODUCTION

1.1. Purpose and Overview

The Department of Health and Human Services (DHHS), Bureau of Developmental Services (BDS) is seeking to procure consulting services to develop a comprehensive list of business requirements, technical requirements and conceptual design for a Request for Proposals (RFP) soliciting modernized information technology systems for the Bureau of Developmental Services (BDS) and their network of regional service providers (Area Agencies or AA and independent providers).

DHHS intends to contract with a single vendor that can provide consulting services with the requisite skills and experience as well as depth of knowledge required to complete these tasks. The vendor selected to perform this work will not be permitted to submit a proposal for the follow-on system implementation Request for Proposal.

The selected vendor will analyze the current business and technical systems, conduct interviews and research all necessary information, including available technology in the marketplace. The vendor will utilize the data and information gathered to succinctly define the DHHS BDS functional and non-functional requirements needed to develop an RFP, in addition to a conceptual system design. Any documentation shall be delivered in a format specified by DHHS and shall be available in an electronic format (Microsoft Office).

Supporting the goals of interoperability, enterprise alignment, and more effective client services, the Department would also like to evaluate the opportunities to leverage this technology investment across multiple programs: the Bureau of Elderly and Adult Services and the Division for Children, Youth and Families (DCYF), Bureau of Field Services. In addition, the contractor shall develop requirements for the core case management functions of the elderly/adult long-term care environment. Other ancillary business functions of these DHHS programs are not within the scope of this RFP.



1.2. Request for Proposal Terminology

| Acronym | Term |
|--------------------|---|
| AA | Area Agency |
| ABD | Acquired Brain Disorder |
| AFCARS | Adoption and Foster Care Analysis and Reporting System |
| ADT | Admissions, Discharges, and Transfers |
| APP | Adult Protection Program |
| BDS | Bureau of Developmental Services |
| BEAS | Bureau of Elderly & Adult Services |
| Bidder | Organization/vendor submitting a proposal in response to the RFP |
| CCDF | Child Care Development Fund |
| CFI | Choices for Independence |
| CHINS | Children in Need of Services |
| CIS | Children's Information System |
| COTS | Commercial Off the Shelf System |
| CSDD | Conceptual System Design Document |
| CSNI | Community Support Network |
| DCS | Division of Client Services |
| DCYF | Division for Children, Youth and Families |
| DD | Developmental Disability |
| DFA | Division of Family Assistance |
| DHHS or Department | Department of Health and Human Services |
| DO | District Office |
| FCESS | Family-Centered Early Supports and Services |
| G&C | Governor and Executive Council |
| HCBS | Home and Community Based Services Medicaid Waivers |
| ICJ | Interstate Compact for Juveniles |
| ICPC | Interstate Compact on the Placement of Children (ICPC) |
| ID | Intellectual Disability |
| JJS | Juvenile Justice Services |
| JPPO | Juvenile Probation and Parole |
| MCO | Managed Care Organization |
| MMIS | Medicaid Management Information System |
| NCANDS | National Child Abuse and Neglect Data System |
| New HEIGHTS | Eligibility & enrollment system for New Hampshire |
| NHESIS | New Hampshire Education Information System |
| NYTD | National Youth in Transition |
| Options | The BEAS information system used to manage the Adult Protection Program and Older Americans Act/Social Service Block Grant contracted services. |
| PA | Prior Authorization |
| PERS | Personal Emergency Response System |
| RFI | Request for Information |
| RFP | Request for Proposals; a Request for Proposals means an invitation to submit a proposal to provide specified goods or services, where the particulars of the goods or |



| | |
|---------------------|---|
| | services and the price are proposed by the vendor and, for proposals meeting or exceeding specifications, selection is according to identified criteria as provided by RSA 21-I:22-a and RSA 21-I:22-b. |
| RSA | Revised Statutes Annotated |
| SACWIS | State Automated Child Welfare Information System |
| Subrecipient | A vendor issued funds to provide goods or services on behalf of the Department to the public. |
| SFY | State Fiscal Year; a term that begins July 1 and ends June 30 |
| SLRC | ServiceLink Resource Center |
| UI | User Interface |
| Vendor | Organization/bidder submitting a response to this RFP |

1.3. Contract Period

The Contract resulting from this RFP will be effective upon Governor & Executive Council approval, through March 31, 2019.

The Department may extend contracted services for up to two (2) additional years, contingent upon satisfactory vendor performance, continued funding and Governor and Executive Council approval.



2. BACKGROUND AND REQUIRED SERVICES

2.1. New Hampshire Department of Health & Human Services, Bureau of Developmental Services

- 2.1.1. The Department of Health and Human Services (DHHS) Bureau of Developmental Services (BDS) is responsible for the statewide coordination of services for children and adults and their families who experience developmental disabilities, acquired brain disorders and health concerns. BDS coordinates and oversees a comprehensive community-based system carried out by regional Area Agencies and other enrolled providers as outlined in RSA 171-A as BDS' Organized Health Care Delivery System.
- 2.1.2. BDS oversees the community-based long-term supports and services system for children and adults with developmental disabilities, acquired brain disorders and children with chronic health conditions. A majority of these services are paid for through 1915 (c) Home and Community-Based Services Waivers, most recently reviewed during State Fiscal Year 2017.
- 2.1.3. Through the Home and Community Based Services Waiver (HCBS), BDS through the statewide service delivery system serves:
 - Approximately 4,593 individuals with developmental disabilities
 - Approximately 300 individuals with acquired brain disorders; and
 - Approximately 400 children with and families with in-home supports.
- 2.1.4. BDS also oversees the statewide Family-Centered Early Supports and Services (FCESS) is New Hampshire's Early Intervention Program, carried out under Part C of the Federal Individuals with Disabilities Education Act (IDEA). This program statewide serves approximately 3,884 children age birth to age three (3) each year.
- 2.1.5. BDS also oversees the Bureau of Special Medical Services for children and youth with special health care needs. Statewide, this program impacts approximately 2,239 children, up to the age of twenty-one (21) each year.
- 2.1.6. BDS oversees the system providing supportive services to the Acquired Brain Injury (ABI) and Developmental Disabilities (DD) populations to help individuals live and work in, and contribute to, their communities. BDS oversight includes both programmatic and fiscal monitoring of the system. BDS' mission is to promote "opportunities for normal life experience for persons with developmental disabilities or acquired brain disorder in all areas of community life, including: employment, housing, recreation, and community associations. Family Support is a guiding principle for providing valuable assistance and cost effective services." These services may include, but not limited to:
 - 2.1.6.1. service coordination;
 - 2.1.6.2. employment and volunteer opportunities, job development, and on-the-job training;
 - 2.1.6.3. personal care;
 - 2.1.6.4. assistive technologies;



- 2.1.6.5. family support;
- 2.1.6.6. community activities; and
- 2.1.6.7. consultation services to improve or maintain the individual's communication, mobility, and physical and psychological health and well-being.
- 2.1.7. Without these services, those served and their families could experience significant crises. In addition, family caregivers may lose employment in order to stay home to care for their adult children. State law gives service recipients and their families increased choices and input into decision-making on how funds would be used.
- 2.1.8. In 2011, the Legislature required DHHS to submit contracts by March 2012 to the Governor and Executive Council for moving all eligible State Medicaid members to a managed care service provision model. Eligible Medicaid members were required to be enrolled within one year of awarding the managed care contracts. All eligible Medicaid members are now covered by managed care for their State Plan medical services; however, the transition of all four HCBS waivers has not occurred DHHS has not specified a start date for the transition of the 1915 (c) waivers under BDS. Although plans for this transition have not solidified, any new system implementation must be able to support this transition. Therefore, requirements for interoperability with Managed Care Organizations ("MCO") systems is considered within the scope of this project.
- 2.1.9. Unlike other states, the New Hampshire Bureau of Developmental Services does not directly provide community-based services. As required by statute, it oversees a system of non-profit Area Agencies (AA) that serve as the OHCDs. Each AA is required to plan, establish, and maintain a comprehensive service delivery system for eligible ABD and DD individuals and their families in one of the ten regions delineated in rule. Services to consumers are provided directly by the AAs or through their subcontracted providers. The terms and conditions of the services provided by AAs are established in law, rules, BDS guidelines and policies, and through sole-source contracts with the DHHS. DHHS manages the AAs through contracts, consultation, monitoring, technical assistance, service reviews, and training. Statute requires DHHS to predesignate each AAs every five years, and rules implemented this requirement through a re-designation process. Each year BDS implements a Governance Audit of each AA.
- 2.1.10. The systems in use today have been integrated into this process over time and significantly contribute to inefficiencies in the operation of the state offices and the contracted service providers. Some of the key system deficiencies that the State hopes to remedy include:
 - 2.1.10.1. Siloed systems for distinct process steps – no data interfaces;
 - 2.1.10.2. Manual data entry of same data into 4 separate systems;
 - 2.1.10.3. Use of a manual process for file uploads and downloads;
 - 2.1.10.4. Use of US Postal Mail for sending data to the state's MMIS system;
 - 2.1.10.5. Multiple databases – no common source for reporting;
 - 2.1.10.6. Critical consumer eligibility status information restricted from service



providers; and

- 2.1.10.7. No tickler or alert system to inform users of the causes for process delays.

2.1.11. NH DHHS BDS Stakeholders

- 2.1.11.1. **BDS Executive Administration** - The Administrative staff at BDS is charged with the oversight of the day-to-day operations at the Bureau of Developmental Services. Administrative staffing pattern includes a Bureau Chief, Clinical Administrator, Special Medical Services Administrator, Finance Administrator and Legal Counsel.
- 2.1.11.2. **BDS Prior Authorization Staff** – Prior Authorization Staff review eligibility and generate a “PA” which outlines the rate at which services may be provided and the number of units allowable within the PA period. A PA is essential to the Area Agency in order to deliver services, as it is essentially the mechanism by which the Area Agency may bill.
- 2.1.11.3. **BDS Bureau Liaisons** – Bureau Liaisons are assigned to one or more area agencies and provide quality, fiscal, and contract oversight to ensure that area agencies are in compliance with contractual requirements. Liaisons supervise regional activity through statistical, financial and program evaluation in order to ensure accountability and successful regional implementation of BDS mission, policy and procedures.
- 2.1.11.4. **DHHS Division of Client Services (DCS)** –DCS manages intake, ongoing tracking and discharge of those eligible for Medicaid through the New HEIGHTS System.
- 2.1.11.5. **DHHS MMIS Systems Support Unit** - The Medicaid Management Information System (MMIS) is used to manage provider enrollment, provide client eligibility information to service providers, and utilizes service authorizations when processing payments from provider claims after services are rendered.
- 2.1.11.6. **New HEIGHTS Eligibility System** - Client Services manages intake, ongoing tracking and discharge of those eligible for Medicaid through the New HEIGHTS System. Prior Authorization staff approve special eligibility for waiver services in this system.
- 2.1.11.7. **Area Agency Organizations** - Area Agencies are responsible for service delivery to eligible individuals and their families in their respective regions. Area agencies assist with applications for services and either deliver services to those in their region or they contract with private entities to provide those services. Area agencies are held accountable for quality oversight of services and staffing of programs. Business staff within the AAs are users of the system to process applications.
- 2.1.11.8. **Community Services Network, Inc. (CSNI)** - CSNI provides administrative and financial services to the Area Agencies, establishes policy positions on legislative or regulatory issues, and manages grant programs benefiting our constituents in the community of individuals with developmental disabilities. It is anticipated that by January 1, 2019, direct service providers will have the opportunity to bill for services directly.



They currently bill via the AA and the AA is responsible for obtaining and maintaining the PA and the billing process. This is currently in process, but the new system must have the capacity to included users, such as the direct service providers, with a limited access.

2.1.12. Applicable BDS Waivers

2.1.12.1. New Hampshire BDS Developmental Services [0053.R05.00]

Provides day services, residential habilitation/personal care, respite, service coordination, supported employment, assistive technology support, community support, crisis response, environmental and vehicle mods, participant directed and managed services, specialty services for individuals w/autism, developmental and intellectual disabilities from birth through the lifespan.

2.1.12.2. New Hampshire BDS Acquired Brain Disorder Services (ABD) [4177.R04.00]

Provides day services, respite, service coordination, supported employment, assistive technology support, community support, crisis response, environmental and vehicle mod, participant directed and managed services, residential habilitation/personal care, specialty services for individuals w/brain injury ages 22 and over.

2.1.12.3. New Hampshire In Home Supports for Children with DD (IHS) [0397.R03.00]

Provides enhanced personal care, consultations, environmental and vehicle mods, family support/service coordination, respite care for individuals with autism, developmental and intellectual disabilities ages birth through age 21.

2.2. New Hampshire DHHS Division for Children, Youth and Families (DCYF), Bureau of Field Services

2.2.1. The Bureau of Child Protection Program supports a number of initiatives for the prevention of child abuse and neglect. These initiatives provide support for families and strive towards goals of reducing risks to children, improving parenting skills, and strengthening social support networks for families. In addition, certain initiatives seek to bring together national, state and local experts to address issues of child abuse and neglect in efforts to educate the public and for professional development. A robust case management system is essential to track and manage the following Child Protection Program services:

2.2.1.1. Child Protective Staff work together with families to assess the safety of children, identify needs and develop a case plan. This plan defines the specific needs of the children and family members and outlines the method by which a family's protective service issues will be resolved with the assistance of DCYF.

2.2.1.2. Services are primarily delivered directly to a child and family in the home and community. The process for resolving abuse and neglect has three primary functions, Intake, Assessment and Family Services.



- 2.2.1.3. Intake - DCYF receives more than 27,000 reports of suspected child abuse and neglect annually as well as reports of Children in Need of Services (CHINS) through the DCYF Intake Unit. A toll-free number is available twenty-four (24) hours a day, seven (7) days a week by highly trained, experienced workers. Referrals can be made to community agencies and to the local District Office staff for further assessment.
- 2.2.1.4. Assessment - This function is performed by District Office Child Protection staff who comprehensively investigate and assess each report of alleged child abuse and neglect. Approximately 10,500 reports are assessed annually in NH.
- 2.2.1.5. Family Services - Treatment and rehabilitative services are provided to families whose children have been neglected or abused. Child Protection staff interact with families, courts, and providers to ensure that children's safety is maintained and that goals and objectives are met in a timely manner.
- 2.2.1.6. If treatment and rehabilitative services are unable to provide a safe environment for the children, temporary out-of-home placement with a relative or in foster care may be utilized to provide children with the safety they require. When children cannot safely return home, other options including Adoption are considered in order to achieve permanency and stability for them.
- 2.2.1.7. To further ensure the safety of NH children, a Special Investigations Unit (SIU) investigates all allegations of abuse and neglect in foster homes, institutional settings, and residential, educational, and treatment facilities.
- 2.2.2. **Juvenile Justice Services (JJS)** is responsible for providing supervision and rehabilitative services to youth adjudicated under state law as delinquent or as Children In Need of Services (CHINS). JJS provides supervision, case management, and an array of rehabilitative services through its staff of Juvenile Probation and Parole Officers (JPPOs) and a network of community-based providers who are licensed and/or certified by DHHS. Juvenile Justice Services administers programs and services around three organizational and functional areas: 1) institutional services, 2) probation and parole, and 3) community programs. The staff relies on their case management system to support the following:
 - 2.2.2.1. Institutional Services: The Sununu Youth Services Center and the Youth Detention Services Unit provide an architecturally secure placement for detained and committed juveniles and for NH youth involved with the NH court system.
 - 2.2.2.2. Probation and Parole: conducts investigations and provides supervision of delinquent minors and Children In Need of Services (CHINS), as well as providing supervision of committed delinquents released from the Sununu Youth Services Center on parole. JJS JPPOs are located in the 12 DHHS District Offices and 5 itinerant offices.
 - 2.2.2.3. Community Programs: all community-based services, both residential and non-residential, are administered by this unit, through JJS institutional and field staff in cooperation with the NH court system. The services are



then delivered by local organizations and providers. These services include home-based therapeutic services, substance abuse assessment and counseling, mental health services and an array of residential services, (foster homes, group homes, and intensive treatment facilities).

2.2.3. DCYF Functional Environment:

The Bridges system provides DCYF with a child welfare management system that meets the federal SACWIS, Adoption and Foster Care Analysis and Reporting System (AFCARS), the National Child Abuse and Neglect Data System (NCANDS), and the National Youth in Transition (NYTD) requirements. The system also incorporates the NH Department of Health and Human Services (DHHS) legacy Children's Information System (CIS) functionality and interfaces with other state systems, including the New HEIGHTS eligibility management system, NH First, the State's Enterprise Resource Planning (ERP) and Financial application by Infor and the NH Department of Education Special Education Information System NHESIS (New Hampshire Education Information System). This application also processes claims for DCYF and DFA clients and vendors. Additionally, Bridges processes the claims for the Child Care Development Fund (CCDF) and tracks the quality and enrollment of the Child Care Providers. Bridges provides functionality for the following business areas:

- 2.2.3.1. Finance and Claims Processing
- 2.2.3.2. Service Provider Management
- 2.2.3.3. Staff Training
- 2.2.3.4. Federal and State Reporting
- 2.2.3.5. Foster Care, Permanency and Adoption
- 2.2.3.6. DCYF and JJS Policy
- 2.2.3.7. Interstate Compact on the Placement of Children (ICPC)
- 2.2.3.8. Interstate Compact for Juveniles (ICJ)

2.3. Elderly and Adult Services

2.3.1. Bureau of Elderly and Adult Services (BEAS) provides a variety of social and long-term supports to adults age sixty (60) and older and to adults between the ages of eighteen (18) and sixty (60) who have a chronic illness or disability. The social and long-term services and supports can be accessed through the ServiceLink Resource Centers (SLRC) and the New Hampshire DHHS District Offices. Services and supports are intended to assist people to live as independently as possible in safety and with dignity. Examples include:

- 2.3.1.1. Home care
- 2.3.1.2. Meals on wheels
- 2.3.1.3. Transportation assistance
- 2.3.1.4. Long Term Supports and Services, community based care via a 1915 (c) Home and Community Based Services Waiver or Nursing Facility.
- 2.3.1.5. Information and assistance regarding Medicare and Medicaid



- 2.3.1.6. Information about volunteer opportunities
- 2.3.2. BEAS carries out the legal requirements of NH RSA 161-F: 42-57, the Protective Services to Adults Law under Adult Protective Services (APS). The purpose of the law, which is civil and not criminal, is to provide protection for vulnerable adults who are age 18 and older, who are abused, neglected, exploited, or self-neglecting. The APP maintains a State registry of founded reports of abuse, neglect and exploitation of vulnerable adults.
- 2.3.3. The Options information system is a State-owned system maintained by DHHS and DoIT staff and used to manage the APS, BEAS social worker caseload and State Registry, service authorizations, claims processing and provider payments related to the Social Services Block Grant (SSBG) and the Older Americans Act (OAA) services. The Options system interfaces with NH First, the State's financial system, to make payments resulting from claims processing.
- 2.3.4. The core case management functionality is used by the APS for assessing needs and authorizing services on an ongoing basis for 1,500 cases and 20,000 service authorizations annually, and also includes Social Service contract services that assist in supporting over 30,000 individuals annually.
- 2.3.5. **The Options system provides functionality for the following business areas:**
 - 2.3.5.1. Tracking APS Calls, Information and Referrals, Non-Protection and Protection Intakes;
 - 2.3.5.2. Managing APS Investigative Reports;
 - 2.3.5.3. APS and Social Service Case Management;
 - 2.3.5.4. OAA and SSBG Service Authorization Management;
 - 2.3.5.5. Social Service Budget and Contract Administration;
 - 2.3.5.6. Finance and Claims Processing;
 - 2.3.5.7. Service Provider Management; and
 - 2.3.5.8. Federal and State Reporting.
- 2.3.6. The Choices for Independence (CFI) HCBS Waiver is administered by BEAS.. This waiver is managed through the New HEIGHTS system, which includes Medicaid and waiver eligibility, case management, and service authorization approval and maintenance. The CFI service authorizations interface with the MMIS which is responsible for provider management and claims processing. The long term plan would be to include management of this waiver with the BDS waivers outlined in this statement of work and should be considered in future systems planning.



3. STATEMENT OF WORK

3.1. Concept of Operations

- 3.1.1. The Department envisions a single or integrated system with a streamlined workflow to support the processing of BDS services. The system will be utilized by both DHHS BDS and Area Agency staff, and eventually the Community Providers that bill Medicaid directly. The workflow commences with the client's application for Medicaid eligibility in the State's New HEIGHTS system and continues to Area Agency intake, managing the waitlist registry, client service plan development and budget approval, to Medicaid prior authorization for services, and finally Medicaid billing, interfacing to the State's Medicaid Management Information System (MMIS).
- 3.1.2. The new system must be fully integrated and include, but is not limited to, tracking of various populations/client groups, admissions, discharges, and Transfers (ADT), referrals, service and program eligibility, waitlist assessments, multiple types of individual service plans, case management, progress notes, behavior notes, supported employment, service authorizations, claims, consumer accounting, provider certifications, visit verifications, a provider portal, a consumer/family portal, outcomes, and financial requirements. The system must also provide paperless workflow processing, alerts/ticklers, document imaging, system interfaces, automated letter generation, mobile device support, and e-signature capabilities. Ad hoc reporting that allows multiple levels of criteria and custom formatting is required. This system will be used by various business units, providers, and consumers, and must be HIPAA-compliant. As many providers may have their own systems supporting some of these functions, the proposed solution must allow secure interoperability with other applications.

3.2. Potential Solutions

- 3.2.1. The State can foresee implementing several possible technology solutions, including but not limited to the items listed below. The final report must include the requirements for each discreet approach.
 - 3.2.1.1. Commercial Off-The-Shelf (COTS) application hosted by a vendor or in the State's data center
 - 3.2.1.2. Software as a Solution application (SAAS);
 - 3.2.1.3. A configurable software platform hosted by a vendor or in the State's data center;
 - 3.2.1.4. Transferring an existing system from another state and modifying for the Department;
 - 3.2.1.5. A custom developed application that will be unique to New Hampshire; or
 - 3.2.1.6. A combination of any of the above.



3.3. Project Stakeholders

3.3.1. Executive Sponsor: DHHS Director of the Division of Long Term Supports and Services

The Executive Sponsor will be responsible for securing financing and resources, addressing issues brought to her attention by DHHS Project Manager, and promoting the Project throughout the Department and stakeholders.

3.3.2. DHHS Project Manager

The Project Manager will be responsible for working with DHHS BDS, DoIT Staff, Area Agency staff, and the Vendor to ensure appropriate execution of the Contract. The Project Manager will be the primary point of contact for the Vendor and business users, and will interact with the Vendor to address questions or concerns encountered by users in the day-to-day performance of the project.

3.3.2.1. Major duties include:

- 3.3.2.1.1. Leading the Project;
- 3.3.2.1.2. Developing Project strategy and approach;
- 3.3.2.1.3. Engaging and managing all Vendors;
- 3.3.2.1.4. Managing significant issues and risks; and
- 3.3.2.1.5. Managing stakeholders' concerns

3.3.3. DHHS Business System Manager

The Business System Manager will act as a business analyst and liaison between the Project Manager, the Vendor, DHHS, Area Agencies, and DoIT technical resources.

3.3.3.1. Major duties include:

- 3.3.3.1.1. Supporting the Project as a technical resource;
- 3.3.3.1.2. Functioning as a primary point of contact for the Vendor on technical matters that do not require the direct involvement of the Project Manager.

3.3.4. Other Stakeholders

| Organization | Title | Roles |
|---|---------------------|---|
| Division of Long term Supports and Services | Director | Executive Management |
| Bureau of Developmental Services | Bureau Chief | Executive Management |
| Bureau of Developmental Services | Program Specialists | Pre-authorization SME |
| Bureau of Developmental Services | Bureau Liaisons | Client Budget Approvals, Wait List AA Relationship Managers |
| Bureau of Developmental Services | Legal Counsel | Legal Counsel |



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|--|---|--|
| Area Agencies | Executive Directors, Business Managers, IT Staff | Area Agency SMEs |
| Community Services Network, Inc. (CSNI) | Executive Director | Area Agency SMEs |
| DHHS Office of Medicaid Services | Director | Managed Care SME |
| Managed Care Organizations ("MCO") as appropriate | Executive Directors | Managed Care SMEs |
| Community Providers | Executive Director, Business Manager, IT | Community Provider SMEs |
| | | |
| Bureau of Elderly and Adult Services | Bureau Chief | Executive Management |
| Bureau of Elderly and Adult Services | Adult Protective Services Administrator | APP SME |
| Bureau of Elderly and Adult Services | BEAS Administrator | Social Service SME |
| Bureau of Elderly and Adult Services | Business Systems Analyst | Options SME |
| Bureau of Elderly and Adult Services | Systems Development Specialist | Software development |
| | | |
| Division of Children, Youth and Families | Director | Executive Management |
| Division of Children, Youth and Families | Deputy Director | Executive Management |
| Division of Children, Youth and Families | Bureau of Field Services, Child Protection Field Administrator | Child Protection Subject Matter Expert (SME) |
| Division of Children, Youth and Families | Bureau of Field Services, Juvenile Justice Services Field Administrator | Juvenile Justice Services Subject Matter Expert (SME) |
| Division of Children, Youth and Families | Business Analyst | IT Liaison for NH Bridges Systems |
| Division of Children, Youth and Families | Information Technology Manager | IT Liaison for NH Bridges Systems |
| | | |
| DHHS Office of Information Services | Director of Information Services | Executive Management |
| | | |
| DHHS Office of Information Services | Information Technology Manager | Chief Security Officer |
| DHHS Office of Information Services | Information Technology Manager | System Architect |
| DHHS Office of Information Services | Information Technology Manager | Enterprise Data Warehouse Manager |
| | | |
| DHHS Division of Client Services | Information Technology Manager | Project Manager – New HEIGHTS System |
| DHHS Project Management | Information Technology | Project Manager |



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|---|--------------------------------|---|
| Office | Manager | |
| DHHS Office of Medicaid Services | Information Technology Manager | Business Requirements Manager - Medicaid Management Information System (MMIS) |
| Department Of Information Technology (DoIT) | Information Technology Manager | IT Leader for DoIT |

3.4. Previous Project Research

3.4.1. Preparation for this Requirements and Conceptual Design Development Phase of the project, the New Hampshire developmental services community has collaborated on a number of pre-assessment activities that will provide a foundation for the Contractor's work under the resulting contract. DHHS assumes that this baseline information will serve to shorten the time required to complete the specified deliverables and to minimize the cost.

3.4.2. Artifacts developed and available for the selected Vendor include:

- 3.4.2.1. Lean Process Improvement Event Workflow, Summary, and Findings – End-to-end current state workflow and system environment;
- 3.4.2.2. Lean Process Improvement Event for the full Budget Tracking System (BTS) and Prior Authorization (PA) approval processes – Summary, findings and “True North” workflow;
- 3.4.2.3. NH Legislative Budget Assistant (LBA) Health And Human Services Bureau Of Developmental Services Unspent Appropriations Performance Audit Report, February 2016
- 3.4.2.4. Budget Tracking System User Manual
- 3.4.2.5. NH Leads Functionality Catalog
- 3.4.2.6. NH Leads Data Dictionary
- 3.4.2.7. Budget Tracking System Data Dictionary
- 3.4.2.8. Request for Information – 18 vendor submissions
- 3.4.2.9. Current RFPs from other States
- 3.4.2.10. Preliminary business function requirements from external service providers (Area Agencies)

3.5. Scope of Services

3.5.1. Project Goals

- 3.5.1.1. The goal of the requirements analysis project is to transform the needs and high-level requirements specified in earlier phases into unambiguous (specific, measurable and testable), traceable, complete, consistent, and stakeholder-approved requirements. The system requirements identified in the requirements analysis phase are transformed into a conceptual system design document that accurately describes the design of the system at a concept level and that can be used as a foundation for a Request for Proposal to procure the desired technology and services



- 3.5.1.2. A second goal of this project is to support the Department's strategies including client-centered alignment, enterprise systems, and interoperability.

3.5.2. Project Objectives

- 3.5.2.1 The key objectives of this requirements analysis and conceptual system design project include:
- 3.5.2.2 Definition of business and technical requirements for BDS
- 3.5.2.3 Definition of business and technical requirements for the core case management functions of BEAS
- 3.2.5.4 Development of implementation deliverables and acceptance criteria; Transformation of all requirements into a conceptual system design including specifications covering all aspects of the system;
- 3.5.2.5 Market analysis informing DHHS of potential solutions; and
- 3.5.2.6 An analysis of opportunities and the feasibility of leveraging this technology investment across multiple programs: the Bureau of Elderly and Adult Services and the Division for Children,

3.5.3. Functional Scope

3.5.3.1. Business Functions

Requirements and design shall be developed for the BDS business functions, including but not limited to:

Case Management – Eligibility information, demographics, service agreement, health status indicators and other medical information, quality indicators, budget, service authorizations, service agreements, progress notes, satisfaction, and service information. As mentioned above, case management requirements shall be defined for the child welfare/juvenile justice environment and the elderly/adult long-term care environment as well as the developmental services environment.

Analysis of the future case management environment and requirements is the only portion of the scope applicable to DCYF and BEAS.

Interface to/from New HEIGHTS Eligibility System – The New HEIGHTS eligibility and enrollment system qualifies individuals for Medicaid funding through the collection of demographic and financial data. This phase takes place at the New Hampshire DHHS District Offices (DO). Ideally, BDS and AA staff will have visibility into the status of an individual's eligibility request throughout the process. In addition, a data interface from New HEIGHTS into the system will populate appropriate data fields eliminating the need for dual entry.

Waitlist Registry – The Waitlist maintains demographic and programmatic information for those who require services, but funding for these services are not currently available. Data collected includes information about an individual's living situation, need for services, current services receiving, anticipated dollars needed, and anticipated start date.



Budget Approval of Individual Service Plan – Individual service plans are developed for individuals receiving developmental services. Tracking of authorizations and expenditures against the budgets is vital to ensuring available funding is maximized.

Preauthorization of Medicaid Services – Before services are provided to an individual, they must receive prior authorization from Medicaid. Individuals' service plans will be transmitted to the NH MMIS systems for use in governing claims payment.

Medicaid Billing - The system must be able to capture all billing at the individual level, agency, and service level. Individual service authorizations will be sent via a daily data interface to the MMIS. The MMIS will use the service authorizations when processing claims for service payments. Claims are not allowed to exceed what has been authorized in the service authorization and electronic visit verification. As claims are adjudicated and paid, data will be sent to the vendor's system so that service authorizations are updated with payment amounts.

Interface to/from the MMIS – The system must interface daily with the MMIS to exchange service authorizations, claims and provider information.

Complaints Database - BDS maintains a database of all complaints received, the outcome, and follow-up required.

Sentinel Events Database – Area Agencies are required to report unanticipated deaths and other serious incidents.

Incident Reporting - System must support incident reporting for all incidents, including but not limited to, medication errors, abuse, neglect, hospital visits and it also supports the submission of the serious reportable incidents to DD.

Electronic Visit Verification - will provide, implement, and support an electronic visit verification system, which verifies that home and community-based services were delivered according to established policies and procedures. The system must utilize multiple technologies to track the time, location, and task performance of direct service and/or in-home workers during service delivery for the purpose of safeguarding against fraud and improving service delivery and program oversight. The system shall interface with the State's Prior Authorization system(s) and Medicaid Management Information System (MMIS) to authorize payment of claims based on verified service delivery and compliance with the policies and procedures associated with the service.

Health Facility Certifications – The system should be able to manage the certification of health care facilities, programs and services and agencies participating in the Medicare and/or Medicaid programs.

3.5.3.2. Business Analysis Approach - Market Research

The selected vendor shall survey available solutions on the market, including COTS systems, software as a service, and systems used by other public sector institutions, to supplement the business requirements



gathered from stakeholders. This research shall also become the foundations for an estimated budget for implementing a new system.

3.5.3.3. Business Analysis Approach - Requirements, Deliverables, Conceptual Design Development

- 3.5.3.3.1. Using an industry standard methodology, the Vendor's staff will interact with stakeholders to elicit, analyze, communicate and validate requirements. The BA will help to understand business problems and opportunities and recommend solutions that enable the Bureau to achieve its goals and objectives. The BA will be responsible for utilizing the most appropriate means of gathering business requirements and assimilating those into system requirements. Within their proposal, vendors shall provide a detailed description of their proposed methodology for performing these tasks.
- 3.5.3.3.2. The business analysis activities for the DHHS Bureau of Developmental Services IT Modernization Project will provide accurate and thorough documentation for placement into a request for proposal (RFP) with the goal of providing requirements that will facilitate better solution articulation in the responses to the RFP, provide enough clarification for vendors to accurately bid costs to provide the requirements, and for ongoing discussions on conceptual system design after the vendor is contracted to build the solution.
- 3.5.3.3.3. During requirements elicitation, the Vendor should note all assumptions and constraints that will affect implementation and operation of the system. Requirements should also be prioritized based on relative importance.
- 3.5.3.3.4. In addition to functional requirements, the Vendor shall identify non-functional requirements such as operational and known technical requirements. Non-functional requirements describe characteristics or specific parameters of the system and include audit, availability, capacity, performance, and security requirements. Other non-functional requirements include compliance with regulations and standards such as data retention and industry security standards.
- 3.5.3.3.5. The Vendor should describe the system as the functions to be performed and not specific hardware, programs, files, and data streams. The Vendor may perform these activities concurrently and iteratively to refine the set of requirements. The requirements' level of detail should be sufficient to develop information for deliverables as well as procurement documents. All requirements must be consistent with the State of New Hampshire information technology security policies and standards.
- 3.5.3.3.6. The requirements developed shall be as unambiguous (measurable and testable), traceable, complete, and consistent as possible and must be approved by stakeholders. DHHS must balance the need to comprehensively and clearly define



requirements and expectations while simultaneously ensuring that they do not limit procurement competition and unnecessarily disqualify solutions that may meet the business need. As such, requirements must be defined to a sufficient level of detail for prospective vendors to understand current business processes, mandatory requirements, and optional requirements. Vendors shall use the information gathered from market research to further refine requirements to be as unambiguous and comprehensive as possible.

3.5.3.4. Feasibility Analysis

3.5.3.4.1. The contractor shall take a strategic view of the business and technical environments of the three program areas within the scope of the RFP: BDS, BEAS, and DCYF to determine the feasibility of utilizing this planned technology implementation across the three environments. The contractor shall account for anticipated program modifications, in addition to, current technology and future enhancements. The analysis shall consider current and expanded use of the DHHS systems for client eligibility (New HEIGHTS) and Medicaid claims (MMIS). The resulting report shall address the following:

- 3.5.3.4.1.1. Approaches and options considered
- 3.5.3.4.1.2. Benefits and risks of each option
- 3.5.3.4.1.3. Recommendations and justification

- Q1. *Provide a description of your approach to completing the various components of this project.*
- Q2. *Describe how the previous research completed by the DHHS will be used to inform the analysis of the environments within scope and required deliverables.*
- Q3. *What standard methodology do you propose to use to complete this project?*
- Q4. *Describe how you plan to staff this project? Be specific with regards to roles and responsibilities.*
- Q5. *Describe the logical process used to develop the preliminary work plan requested in Q26. What assumptions were made? What are the perceived risks?*
- Q6. *What are important considerations when planning for enterprise systems to be utilized across distinct program area?*
- Q7. *What are the most important considerations when attempting to integrate existing technology into the solution?*
- Q8. *Provide a chart depicting the amount of stakeholder time by role that will be required to participate in interview, demos, deliverable reviews, etc.*

3.5.4. System Requirements Document

3.5.4.1. The selected vendor will develop the System Requirements Document, which contains the complete system requirements and describes the functions that the system must perform. This document shall compile all requirements including functional and non-functional requirements,



process and data models, and interface definitions. DHHS will incorporate the requirements into a future RFP for the system solution.

3.5.4.2. The requirements document must include the following key elements:

- 3.5.4.2.1. Process mapping and workflow documentation;
- 3.5.4.2.2. Reporting and access to data;
- 3.5.4.2.3. Functional process requirements;
- 3.5.4.2.4. Non-functional requirements;
- 3.5.4.2.5. System interface requirements (internal and external);
- 3.5.4.2.6. Security requirements;
- 3.5.4.2.7. Audit trail requirements;
- 3.5.4.2.8. Data currency requirements;
- 3.5.4.2.9. Reliability requirements;
- 3.5.4.2.10. Recoverability requirements;
- 3.5.4.2.11. System availability requirements;
- 3.5.4.2.12. Fault tolerance requirements;
- 3.5.4.2.13. Performance requirements;
- 3.5.4.2.14. Capacity requirements
- 3.5.4.2.15. Data retention requirements;
- 3.5.4.2.16. Acceptance criteria; and
- 3.5.4.2.17. Glossary

Q9. Provide an example of a Requirements Document and a Process Map developed for a similar project.

3.6. Project Deliverables & Acceptance Criteria Document

- 3.6.1. The selected vendor will submit a proposed list of project deliverables for the implementation of new technology with written acceptance criteria to be incorporated in the future system RFP. The deliverables will reflect multiple options for the implementation of an integrated or custom built system. The acceptance criteria shall describe specific and defined conditions that must be met before a project deliverable can be considered complete and can be accepted by the Department. Define the attributes that will indicate whether the quality factors are being satisfied.

Q10. Provide an example of a list of project deliverables with acceptance criteria prepared for a similar project.



Conceptual System Design Document

3.6.2. The selected vendor will construct a Conceptual System Design Document (CSDD), which maps the system requirements to the technical implementation and contains a high-level hypothetical description about the group functions, operations, features, environment, and architecture. The Department expects a conceptual design that does not identify specific technologies. The key elements of the CSDD include the following:

- 3.6.2.1. Analysis of alternatives (Custom developed, COTS, hybrid, etc.);
- 3.6.2.2. Documentation of a conceptual system and network architecture framework;
- 3.6.2.3. Documentation of an information architecture framework; and
- 3.6.2.4. Documentation of dependencies.
- 3.6.2.5. Suggested exhibits include:
 - 3.6.2.6. Use cases;
 - 3.6.2.7. Network diagram;
 - 3.6.2.8. Data flow diagrams;
 - 3.6.2.9. Data model diagram; and
 - 3.6.2.10. A context diagram for each component.

Q11. Provide an example of a Conceptual System Design Document developed for a similar project.

Q12. What are the key design requirements and how were these developed from functional requirements?

Q13. What major design approaches were considered to satisfy these design requirements?

Q14. How were the design alternatives evaluated?

Q15. What is the current baseline approach?

3.7. Required Vendor Skills

3.7.1. The selected vendor will provide personnel with the following experience and skills:

- 3.7.1.1. Subject matter expertise and experience in Medicaid or waiver eligibility, billing, and prior authorization;
- 3.7.1.2. Subject matter expertise and experience in long-term care services delivery;
- 3.7.1.3. Business and systems analysis expertise and experience;
- 3.7.1.4. Conceptual systems design expertise and experience;
- 3.7.1.5. Systems architecture expertise and experience;
- 3.7.1.6. Security expertise and experience;



- 3.7.1.7. Project management expertise and experience;
- 3.7.1.8. Business and technical writing; and
- 3.7.1.9. Excellent active listening skills that is leads to building trust, consensus, and enables prompt resolution of conflicting requirements

Q16. Include a resume for each proposed candidate including certifications, years of experience in each discipline, and a description of applicable projects.

3.8. Supporting Market Research Report and Recommended Solutions

- 3.8.1. The Vendor will prepare a document featuring the results of market research on potential solutions available in the commercial and public sector market places, including an estimated budget, cost/benefit analysis, assumptions, and constraints. Using the research conducted, provide "build/buy/enhance" analysis that informs the Department about the advantages and disadvantages of implementing the following approaches (in no particular order):
- 3.8.2. Commercial Off The Shelf (COTS) application hosted by a vendor or in the State's data center;
- 3.8.3. Software as a Solution application (SaaS);
- 3.8.4. A configurable software platform hosted by a vendor or in the State's data center;
- 3.8.5. Transferring an existing system from another state and modifying for the Department;
- 3.8.6. A custom developed application that will be unique to New Hampshire; or
- 3.8.7. A combination of any of the above.

Q17. Describe the approach and resources you will use to complete the market survey.

Q18. Describe how you will develop a cost/benefit analysis for each option.

3.9. Risks and Assumptions

- 3.9.1. The schedule for transition of developmental services to a managed care model is uncertain. The requirements and conceptual system design must account for the potential that MCOs may use the system to process client claims, or the system needs to integrate with their own systems. Therefore, staff of the existing MCOs are included amongst the project stakeholders.
- 3.9.2. The vendor may conduct interviews and meetings via webinar and conference call but is required to be on site for the initial kick-off meeting, the presentation of preliminary findings, and other critical meetings..
- 3.9.3. State resources must carefully manage their time to balance the requirements of supporting this project and fulfilling normal job responsibilities. The approach to this project must be flexible enough to accommodate some schedule changes, but employ techniques to keep stakeholders on task.

Q19. Describe how you plan to divide vendor staff time between on-site and remote work. What remote meeting techniques will your employ to encourage brainstorming and whiteboarding?



3.10. Project Duration

3.11.1 Time is of the essence with respect to the completion of the deliverables of this project. The resulting requirements and conceptual design are needed before a Request for Proposal can be developed to procure the new technology.

Q20. Provide a narrative for this engagement, clearly describing the level of effort required for each deliverable and accessibility of State staff.

Q21. Describe how State staff assigned to the Project Team must be prepared to contribute. Provide an overview of interactions and dependencies between functions.

4. Project Deliverables

| Ref. # | Activity, Deliverable, or Milestone | Deliverable Type |
|--------|---|-------------------------|
| | Project Management | |
| 1. | Conduct project kick-off meeting | Non-Software |
| 2. | Finalized work plan | Written |
| 3. | Daily stakeholder outreach/ interview progress report | Written |
| 4. | Weekly project status reports | Written |
| | Research | |
| 5. | Interview key executive management to gain a strategic view of the agency's mission and program goals. for the feasibility study. | Written |
| 6. | Interview key technology specialists to understand the DHHS system environment ad standards. | Written |
| 7. | Interview key program business stakeholders to assess current and future business needs | Written |
| 8. | Create a process map for current and future workflows. | Written |
| 9. | Conduct detailed market analysis, including research of industry standards and possible solutions | Written |
| 10. | Interview key technical stakeholders to assess State IT requirements | Written |
| 11. | Interview appropriate stakeholders to assess State security requirements | Written |
| 12. | Conduct research to determine budget estimates for the implementation of the new BDS system. | Written |
| | Presentation | |
| 13. | Provide business and technical stakeholders with proposed findings for validation prior to preliminary findings presentation | Written |
| 14. | Presentation of preliminary findings | Written Non-Software |
| 15. | State acceptance of preliminary findings | Written |
| 16. | Delivery of final report | Written |
| 17. | Develop budget estimates for the implementation of the proposed solutions. | Written |
| 18. | Final reports submitted and accepted by DHHS | Written |



| Ref. # | Activity, Deliverable, or Milestone | Deliverable Type |
|--------|--|------------------|
| | Final Reports | |
| 19 | Feasibility Analysis Report – The Feasibility Analysis Report shall consider opportunities to leverage the technology investment across three DHHS program area. The report shall including sections on scope, criteria, evaluation, benefits and risks, conclusions, and recommendations. | Written |
| 20 | System Requirements Document – formal statement of a system’s business and technical requirements, including, but not limited to: functional process requirements, data requirements, reporting and data access, system interface requirements, non-functional or operational requirements. | Written |
| 21 | Project Deliverables and Acceptance Criteria – A document listing the specific, measurable deliverables for implementing the system with | Written |
| 22 | Conceptual System Design Document – specifies the construction details of the system, each system component’s interaction with other components and external systems, and the interface that allows end users to operate the system and its functions. | Written |
| 23 | Market Research Report – a document featuring the results of market research on potential solutions available in the commercial and public sector market places and an estimated budget. | Written |
| 24 | Solution Recommendations - Using the research conducted, provide “build/buy/enhance” analysis including assumptions and constraints. | Written |
| 25 | Identify Risks – Provide a list and description of potential risks. | Written |

- Q22. Describe how you will meet the project management deliverable requirements in Section 4. Project Deliverables (Lines 1 – 4).
- Q23. Describe how you will meet the research deliverable requirements in Section 4. Project Deliverables (Lines 5 – 10).
- Q24. Describe how you will meet the presentation deliverable requirements in Section 4. Project Deliverables (Lines 11 – 16).
- Q25. Describe how you will meet the final reports deliverable requirements in Section 4. Project Deliverables (Lines 17 – 22).
- Q26. Provide a preliminary Work Plan in Excel format for the completion of all Deliverables specified in this RFP. The preliminary project work plan shall depict tasks, task dependencies, schedule, milestones, deliverables and payment schedule.

5. Staffing

The vendor must propose appropriate staffing for this project. At a minimum, the Department requires that the vendor staff will fulfill the following roles: project manager, business analyst, systems analyst, and subject matter expert. One (1) staff member may fulfill one (1) or more roles.

- Q27. Describe your company staff experience with working with government health services organizations, particularly with Medicaid eligibility, billing, and prior authorization. Highlight background with DD, long term care, and child welfare.
- Q28. Describe the depth and breadth of analytical and technical skills offered by your company staff that relate to a project of this type.



- Q29. *Describe your staffs experience with market research. How will they approach this project and ensure an unbiased recommendation? What market analysis tools will they use during this project?*
- Q30. *Provide references for at least three (3) similar projects for public sector or government organizations of similar size and complexity.*

6. FINANCE (RESERVED)

7. PROPOSAL EVALUATION

7.1. Technical Proposal

1. Project Approach (Q1 – Q8, Q12 – Q15, Q17 – Q25) 200 Points
2. Staff Experience and Skills (Q16, Q27 – Q29) 200 Points
3. Work Plan and Samples (Q9 - Q11, Q26) 150 Points
4. Company Qualifications (Q30 & Financial Assess.) 100 Points

Total Technical Proposal Points Available 650 Points

7.2. Cost Proposal

1. Deliverables Schedule & Pricing (Appendix C)
& Narrative 350 Points

Total Cost Proposal Points Available 350 Points

(Deliverables Schedule narrative must include a detailed description of each deliverable.)

Maximum Point Value: 1,000 Points



8. PROPOSAL PROCESS

8.1. Contact Information – Sole Point of Contact

The sole point of contact, the Procurement Coordinator, relative to the bid or bidding process for this RFP, from the RFP issue date until the selection of a Bidder, and approval of the resulting contract by the Governor and Executive Council is:

State of New Hampshire
Department of Health and Human Services
Marsha Lamarre
Contracts Specialist
Brown Building
129 Pleasant St.
Concord, New Hampshire 03301
Email: Marsha.Lamarre@dhhs.nh.gov
Phone: 603-271-9780

Other State personnel are NOT authorized to discuss this RFP with Bidders before the proposal submission deadline. Contact regarding this RFP with any State personnel not listed above could result in disqualification. The State will not be held responsible for oral responses to Bidders regardless of the source.

8.2. Procurement Timetable

| <u>Procurement Timetable</u> | | |
|--|---|---------------------------------|
| (All times are according to Eastern Time. DHHS reserves the right to modify these dates at its sole discretion.) | | |
| Item | Action | Date |
| 1. | Release RFP | March 9, 2018 |
| 2. | Letter of Intent Submission Deadline (optional but strongly encouraged) | March 21, 2018 by 12:00 Noon |
| 4. | RFP Questions Submission Deadline | March 23, 2018 by 4:00 PM |
| 5. | DHHS Response to Questions Published | March 29, 2018 |
| 6. | Technical and Cost Proposals Submission Deadline | April 18, 2018 by 2:00 PM |
| 7. | Tentative Oral Presentations and Interviews TBD | Week of April 30, 2018 |

8.3. Letter of Intent

- 8.3.1. A Letter of Intent to submit a Proposal in response to this RFP is **optional**, but must be received by the date and time identified in Section 8.2: Procurement Timetable.”
- 8.3.2. Receipt of the Letter of Intent by DHHS will be required in order to receive any correspondence regarding this RFP, any RFP amendments, in the event such



are produced, or any further materials on this project, including electronic files containing tables required for response to this RFP, any addenda, corrections, schedule modifications, or notifications regarding any informational meetings for Bidders, or responses to comments or questions.

- 8.3.3. The Letter of Intent may be transmitted by e-mail to the Procurement Coordinator identified in Section 8.1, but must be followed by delivery of a paper copy within two (2) business days to the Procurement Coordinator identified in Section 8.1.
- 8.3.4. The potential Bidder is responsible for successful e-mail transmission. DHHS will provide confirmation of receipt of the Letter of Intent if the name and e-mail address or fax number of the person to receive such confirmation is provided by the Bidder.
- 8.3.5. The Letter of Intent must include the name, telephone number, mailing address and e-mail address of the Bidder's designated contact to which DHHS will direct RFP related correspondence.

8.4. Bidders' Questions and Answers

8.4.1. Bidders' Questions

- 8.4.1.1. All questions about this RFP, including but not limited to requests for clarification, additional information or any changes to the RFP, must be submitted in writing, citing the RFP page number and part or subpart. Submitted questions to the Procurement Coordinator identified in Section 8.1.
- 8.4.1.2. DHHS may consolidate or paraphrase questions for efficiency and clarity. Questions that are not understood will not be answered. Statements that are not questions will not receive a response.
- 8.4.1.3. Questions must be received by the Department by the deadline given in Section 8.2, Procurement Timetable. DHHS will not acknowledge receipt of questions.
- 8.4.1.4. The questions may be submitted by mail or e-mail; however, DHHS assumes no liability for assuring accurate and complete e-mail transmissions.

8.4.2. DHHS Responses to Questions

DHHS intends to issue responses to questions submitted in writing and questions resulting from the Bidders' Conference by the deadline specified in Section 8.2., Procurement Timetable. Responses to questions asked will be posted on the DHHS public Website (<http://www.dhhs.nh.gov/business/rfp/index.htm>) and sent as an attachment in an e-mail to the contacts identified in accepted Letters of Intent. This date may be subject to change at DHHS discretion.



8.5. RFP Amendment

DHHS reserves the right to amend this RFP, as it deems appropriate prior to the Proposal Submission Deadline on its own initiative or in response to issues raised through Bidder questions. In the event of an amendment to the RFP, DHHS, at its sole discretion, may extend the Proposal Submission Deadline. Bidders who submitted a Letter of Intent will receive notification of the amendment, and the amended language will be posted on the DHHS Internet site.

8.6. Proposal Submission

Proposals submitted in response to this RFP must be received no later than the time and date specified in Section 8.2, Procurement Timetable. Proposals must be addressed for delivery to the Procurement Coordinator specified in Section 8.1, and marked with **RFP-2018-BDS-11-CONSU**.

Late submissions will not be accepted and will remain unopened. Disqualified submissions will be discarded if not re-claimed by the bidding Bidder by the time the contract is awarded. Delivery of the Proposals shall be at the Bidder's expense. The time of receipt shall be considered when a Proposal has been officially documented by DHHS, in accordance with its established policies, as having been received at the location designated above. The State accepts no responsibility for mislabeled mail. Any and all damage that may occur due to shipping shall be the Bidder's responsibility.

8.7. Compliance

Bidders must be in compliance with applicable federal and state laws, rules and regulations, and applicable policies and procedures adopted by the Department of Health and Human Services currently in effect, and as they may be adopted or amended during the contract period.

8.8. Non-Collusion

The Bidder's required signature on the Transmittal Cover Letter for a Proposal submitted in response to this RFP guarantees that the prices, terms and conditions, and services quoted have been established without collusion with other Bidders and without effort to preclude DHHS from obtaining the best possible competitive proposal.

8.9. Collaborative Proposals

Proposals must be submitted by one organization. Any collaborating organization must be designated as subcontractor subject to the terms of Exhibit C Special Provisions (see Appendix B: Contract Minimum Requirements).

8.10. Validity of Proposals

Proposals submitted in response to this RFP must be valid for two hundred forty (240) days following the Technical and Cost Proposal Submission Deadline specified in Section 9.2, Procurement Timetable or until the effective date of any resulting contract, whichever is later. This period may be extended by mutual written agreement between the Bidder and DHHS.



8.11. Property of Department

All material property submitted and received in response to this RFP will become the property of DHHS and will not be returned to the Bidder. DHHS reserves the right to use any information presented in any Proposal provided that its use does not violate any copyrights or other provisions of law.

8.12. Proposal Withdrawal

Prior to the Technical and Cost Proposal Submission Deadline specified in Section 8.2, Procurement Timetable, a submitted Letter of Intent or Proposal may be withdrawn by submitting a written request for its withdrawal to the Procurement Coordinator specified in Section 8.1.

8.13. Public Disclosure

- 8.13.1. The content of a bidder's Proposal must remain confidential until the Governor and Executive Council have approved a contract as a result of this RFP. A Bidder's disclosure or distribution of the contents of its Proposal other than to the State will be grounds for disqualification at the State's sole discretion.
- 8.13.2. The content of each Bidder's Proposal, and addenda thereto, will become public information once the Governor and Executive Council have approved a contract. Any information submitted as part of a bid in response to this RFP may be subject to public disclosure under RSA 91-A. In addition, in accordance with RSA 9-F:1, any contract entered into as a result of this RFP will be made accessible to the public online via the website Transparent NH (www.nh.gov/transparentnh/). Accordingly, business financial information and proprietary information such as trade secrets, business and financials models and forecasts, and proprietary formulas may be exempt from public disclosure under RSA 91-A:5, IV.
- 8.13.3. Insofar as a Bidder seeks to maintain the confidentiality of its confidential commercial, financial or personnel information, the Bidder must clearly identify in writing the information it claims to be confidential and explain the reasons such information should be considered confidential. This should be done by separate letter identifying by page number and proposal section number the specific information the Bidder claims to be exempt from public disclosure pursuant to RSA 91-A:5.
- 8.13.4. Each Bidder acknowledges that DHHS is subject to the Right-to-Know Law New Hampshire RSA Chapter 91-A. DHHS shall maintain the confidentiality of the identified confidential information insofar as it is consistent with applicable laws or regulations, including but not limited to New Hampshire RSA Chapter 91-A. In the event DHHS receives a request for the information identified by a Bidder as confidential, DHHS shall notify the Bidder and specify the date DHHS intends to release the requested information. Any effort to prohibit or enjoin the release of the information shall be the Bidder's responsibility and at the Bidder's sole expense. If the Bidder fails to obtain a court order enjoining the disclosure, DHHS may release the information on the date DHHS specified in its notice to the Bidder without incurring any liability to the Bidder.



8.14. Non-Commitment

Notwithstanding any other provision of this RFP, this RFP does not commit DHHS to award a contract. DHHS reserves the right to reject any and all Proposals or any portions thereof, at any time and to cancel this RFP and to solicit new Proposals under a new bid process.

8.15. Liability

By submitting a Letter of Intent to submit a Proposal in response to this RFP, a Bidder agrees that in no event shall the State be either responsible for or held liable for any costs incurred by a Bidder in the preparation or submittal of or otherwise in connection with a Proposal, or for work performed prior to the Effective Date of a resulting contract.

8.16. Request for Additional Information or Materials

During the period from the Technical and Cost Proposal Submission Deadline, specified in Section 8.2, Procurement Timeline, to the date of Contractor selection, DHHS may request of any Bidder additional information or materials needed to clarify information presented in the Proposal. Such a request will be issued in writing and will not provide a Bidder with an opportunity to change, extend, or otherwise amend its Proposal in intent or substance. Key personnel shall be available for interviews.

8.17. Oral Presentations and Discussions

DHHS reserves the right to require some or all Bidders to make oral presentations of their Proposal. Any and all costs associated with an oral presentation shall be borne entirely by the Bidder. Bidders may be requested to provide demonstrations of any proposed automated systems. Such a request will be in writing and will not provide a Bidder with an opportunity to change, extend, or otherwise amend its proposal in intent or substance.

8.18. Contract Negotiations and Unsuccessful Bidder Notice

- 8.18.1. If a Bidder(s) is selected, the State will notify the Successful Bidder(s) in writing of their selection and the State's desire to enter into contract negotiations. Until the State successfully completes negotiations with the selected Bidder(s), all submitted Proposals remain eligible for selection by the State. In the event contract negotiations are unsuccessful with the selected Bidder(s), the evaluation team may recommend another Bidder(s).
- 8.18.2. In order to protect the integrity of the bidding process, notwithstanding RSA 91-A:4, no information shall be available to the public, or to the members of the general court or its staff, concerning specific responses to requests for bids (RFBs), requests for proposals (RFPs), requests for applications (RFAs), or similar requests for submission for the purpose of procuring goods or services or awarding contracts from the time the request is made public until the closing date for responses except that information specifically allowed by RSA 21-G:37.



8.19. Scope of Award and Contract Award Notice

- 8.19.1. DHHS reserves the right to award a service, part of a service, group of services, or total Proposal and to reject any and all Proposals in whole or in part. A notice of the intended contract award will be sent by mail and/or email to the selected Bidder. A contract award is contingent on approval by the Governor and Executive Council.
- 8.19.2. If a contract is awarded, the Bidder must obtain written consent from the State before any public announcement or news release is issued pertaining to any contract award.

8.20. Site Visits

The Department may, at its sole discretion, at any time prior to contract award, conduct a site visit at the bidder's location or at any other location deemed appropriate by the Department, in order to determine the bidder's capacity to satisfy the terms of this RFP/RFB/RFA. The Department may also require the bidder to produce additional documents, records, or materials relevant to determining the bidder's capacity to satisfy the terms of this RFP/RFB/RFA. Any and all costs associated with any site visit or requests for documents shall be borne entirely by the bidder.

8.21. Protest of Intended Award

Any challenge of an award made or otherwise related to this RFP shall be governed by RSA 21-G:37, and the procedures and terms of this RFP. The procedure set forth in RSA 21-G:37, IV, shall be the sole remedy available to challenge any award resulting from this RFP. In the event that any legal action is brought challenging this RFP and selection process, outside of the review process identified in RSA 21-G:37, IV, and in the event that the State of New Hampshire prevails, the challenger agrees to pay all expenses of such action, including attorney's fees and costs at all stages of litigation.

8.22. Contingency

Aspects of the award may be contingent upon changes to State or federal laws and regulations.



9. PROPOSAL OUTLINE AND REQUIREMENTS

9.1. Presentation and Identification

9.1.1. Overview

- 9.1.1.1. Bidders are expected to examine all documentation and other requirements. Failure to observe the terms and conditions in completion of the Proposal are at the Bidder's risk and may, at the discretion of the State, result in disqualification.
- 9.1.1.2. Proposals must conform to all instructions, conditions, and requirements included in the RFP.
- 9.1.1.3. Acceptable Proposals must offer all services identified in Section 3 - Statement of Work, unless an allowance for partial scope is specifically described in Section 3, and agree to the contract conditions specified throughout the RFP.
- 9.1.1.4. Proposals should be received by the Technical and Cost Proposal Submission Deadline specified in Section 8.2 Procurement Timetable, and delivered, under sealed cover, to the Procurement Coordinator specified in Section 8.1., and must specify **RFP-2018-BDS-11-CONSU**.
- 9.1.1.5. Fax or email copies will not be accepted.
- 9.1.1.6. Bidders shall submit a Technical Proposal and a Cost Proposal.

9.1.2. Presentation

- 9.1.2.1. Original copies of Technical and Cost Proposals in separate three-ring binders.
- 9.1.2.2. Copies in a bound format (for example wire bound, coil bound, saddle stitch, perfect bound etc. at minimum stapled) NOTE: loose Proposals will not be accepted.
- 9.1.2.3. Major sections of the Proposal separated by tabs.
- 9.1.2.4. Standard eight and one-half by eleven inch (8 ½" x 11") white paper.
- 9.1.2.5. Font size of 10 or larger.

9.1.3. Technical Proposal

- 9.1.3.1. Original in three-ring binder marked as "Original."
- 9.1.3.2. The original Transmittal Letter (described in Section 9.2.2.1) must be the first page of the Technical Proposal and marked as "Original."
- 9.1.3.3. Five (5) copies in bound format marked as "Copy."
- 9.1.3.4. One (1) electronic copy (divided into folders that correspond to and are labeled the same as the hard copies) on CD or Memory Card/Thumb Drive. NOTE: In the event of any discrepancy between the copies, the hard copy marked "Original" will control.
- 9.1.3.5. Front cover labeled with:
 - 9.1.3.5.1. Name of company / organization;



9.1.3.5.2. RFP#: RFP-2018-BDS-11-CONSU; and

9.1.3.5.3. Technical Proposal.

9.1.4. Cost Proposal

9.1.4.1. Original in three-ring binder marked as "Original."

9.1.4.2. A copy of the Transmittal Letter marked as "Copy" as the first page of the Cost Proposal.

9.1.4.3. Five (5) copies in bound format marked as "Copy."

9.1.4.4. One (1) electronic copy (divided into folders that correspond to and are labeled the same as the hard copies). NOTE: In the event of any discrepancy between the copies, the hard copy marked "Original" will control.

9.1.4.5. Front cover labeled with:

9.1.4.5.1. Name of company / organization;

9.1.4.5.2. RFP#: RFP-2018-BDS-11-CONSU; and

9.1.4.5.3. Cost Proposal.

9.2. Outline and Detail

9.2.1. Proposal Contents – Outline

Each Proposal shall contain the following, in the order described in this section:

(Each of these components must be separate from the others and uniquely identified with labeled tabs.)

9.2.2. Technical Proposal Contents – Detail

9.2.2.1. Transmittal Cover Letter

The Transmittal Cover Letter must be:

9.2.2.1.1. On the Bidding company's letterhead;

9.2.2.1.2. Signed by an individual who is authorized to bind the Bidding Company to all statements, including services and prices contained in the Proposal; and

9.2.2.1.3. Contain the following:

9.2.2.1.3.1. RFP#: **RFP-2018-BDS-11-CONSU**

9.2.2.1.3.2. Identify the submitting organization;

9.2.2.1.3.3. Identify the name, title, mailing address, telephone number and email address of the person authorized by the organization to contractually obligate the organization;

9.2.2.1.3.4. Identify the name, title, mailing address, telephone number and email address of the fiscal agent of the organization;

9.2.2.1.3.5. Identify the name, title, telephone number, and e-mail address of the person who will serve as the Bidder's representative for all matters relating to the RFP;



- 9.2.2.1.3.6. Acknowledge that the Bidder has read this RFP, understands it, and agrees to be bound by its requirements;
- 9.2.2.1.3.7. Explicitly state acceptance of terms, conditions, and general instructions stated in Section 8 Mandatory Business Specifications, Contract Terms and Conditions;
- 9.2.2.1.3.8. Confirm that Appendix A Exceptions to Terms and Conditions is included in the proposal;
- 9.2.2.1.3.9. Explicitly state that the Bidder's submitted Proposal is valid for a minimum of two hundred forty (240) days from the Technical and Cost Proposal Submission Deadline specified in Section 8.2.;
- 9.2.2.1.3.10. Date Proposal was submitted; and
- 9.2.2.1.3.11. Signature of authorized person.

9.2.2.2. Table of Contents

The required elements of the Proposal shall be numbered sequentially and represented in the Table of Contents.

9.2.2.3. Executive Summary

The Bidder shall submit an executive summary to:

- 9.2.2.3.1. Provide DHHS with an overview of the Bidder's organization and what is intended to be provided by the Bidder;
- 9.2.2.3.2. Demonstrate the Bidder's understanding of the services requested in this RFP and any problems anticipated in accomplishing the work;
- 9.2.2.3.3. Show the Bidder's overall design of the project in response to achieving the deliverables as defined in this RFP; and
- 9.2.2.3.4. Specifically demonstrate the Bidder's familiarity with the project elements, its solutions to the problems presented and knowledge of the requested services.

9.2.2.4. Proposal Narrative, Project Approach, and Technical Response

- 9.2.2.4.1. The Bidder must answer all questions and must include all items requested for the Proposal to be considered. The Bidder must address every section of Section 3, Statement of Work, even though certain sections may not be scored.
- 9.2.2.4.2. Responses must be in the same sequence and format as listed in Section 3 Statement of Work and must, at a minimum, cite the relevant section, subsection, and paragraph number, as appropriate.
- 9.2.2.4.3. The question is to be written before the answer is provided.
- 9.2.2.4.4. The Proposal Narrative is to be provided in Word format on the electronic copy.



9.2.2.5. Description of Organization

Bidders must include in their Proposal a summary of their company's organization, management and history and how the organization's experience demonstrates the ability to meet the needs of requirements in this RFP.

9.2.2.5.1. At a minimum respond to:

- 9.2.2.5.1.1. General company overview;
- 9.2.2.5.1.2. Ownership and subsidiaries;
- 9.2.2.5.1.3. Company background and primary lines of business;
- 9.2.2.5.1.4. Number of employees;
- 9.2.2.5.1.5. Headquarters and Satellite Locations;
- 9.2.2.5.1.6. Current project commitments;
- 9.2.2.5.1.7. Major government and private sector clients; and
- 9.2.2.5.1.8. Reasons why the organization is capable of effectively completing the project outlined in the RFP; and
- 9.2.2.5.1.9. All strengths that are considered an asset to the project.

9.2.2.5.2. The Bidder should demonstrate:

- 9.2.2.5.2.1. The length, depth, and applicability of all prior experience in providing the requested services;
- 9.2.2.5.2.2. The skill and experience of staff and the length, depth and applicability of all prior experience in providing the requested services.

9.2.2.6. Bidder's References

The Proposal must include relevant information about at least three (3) similar or related contracts or subcontracts awarded to the Bidder. Particular emphasis should be placed on previous contractual experience with government agencies. DHHS reserves the right to contact any reference so identified. The information must contain the following:

- 9.2.2.6.1. Name, address, telephone number, and website of the customer;
- 9.2.2.6.2. A description of the work performed under each contract;
- 9.2.2.6.3. A description of the nature of the relationship between the Bidder and the customer;
- 9.2.2.6.4. Name, telephone number, and e-mail address of the person whom DHHS can contact as a reference; and
- 9.2.2.6.5. Dates of performance.

9.2.2.7. Staffing and Resumes

Each Bidder shall submit an organizational chart and a staffing plan for the project. For persons currently on staff with the Bidder, the Bidder shall provide names, title, qualifications and resumes. For staff to be hired, the Bidder shall describe the hiring process and the qualifications



for the position and the job description. The State reserves the right to accept or reject dedicated staff individuals.

9.2.2.8. Subcontractor Letters of Commitment (if applicable)

If subcontractors are part of this proposal, signed letters of commitment from the subcontractor are required as part of the RFP. The Bidder shall be solely responsible for meeting all requirements and terms and conditions specified in this RFP, its Proposal, and any resulting contract, regardless of whether it proposes to use any subcontractors. The Bidder and any subcontractors shall commit to the entire contract period stated within the RFP, unless a change of subcontractors is specifically agreed to by the State. The State reserves the right to approve or reject subcontractors for this project and to require the Bidder to replace subcontractors found to be unacceptable.

9.2.2.9. License, Certificates and Permits as Required

This includes: a Certificate of Good Standing or assurance of obtaining registration with the New Hampshire Office of the Secretary of State. Required licenses or permits to provide services as described in Section 3 of this RFP.

9.2.2.10. Affiliations – Conflict of Interest

The Bidder must include a statement regarding any and all affiliations that might result in a conflict of interest. Explain the relationship and how the affiliation would not represent a conflict of interest.

9.2.2.11. Required Attachments

The following are required statements that must be included with the Proposal. The Bidder must complete the correlating forms found in the RFP Appendices and submit them as the "Required Attachments" section of the Proposal.

9.2.2.11.1. **Appendix A** - Bidder Information and Declarations: Exceptions to Terms and Conditions

9.2.3. **Cost Proposal Contents – Detail**

9.2.3.1. Cost Bid Requirements

Cost proposals may be adjusted based on the final negotiations of the scope of work. See Section 6, Finance for specific requirements.

9.2.3.2. Statement of Bidder's Financial Condition

9.2.3.2.1. The organization's financial solvency will be evaluated. The Bidder's ability to demonstrate adequate financial resources for performance of the contract or the ability to obtain such resources as required during performance under this contract will be considered.

9.2.3.2.2. Each Bidder must submit audited financial statements for the four (4) most recently completed fiscal years that demonstrate the Bidder's organization is in sound financial condition. Statements must include a report by an independent auditor that expresses an unqualified or qualified opinion as to whether the accompanying



financial statements are presented fairly in accordance with generally accepted accounting principles. A disclaimer of opinion, an adverse opinion, a special report, a review report, or a compilation report will be grounds for rejection of the proposal.

9.2.3.2.3. Complete financial statements must include the following:

- 9.2.3.2.3.1. Opinion of Certified Public Accountant
- 9.2.3.2.3.2. Balance Sheet
- 9.2.3.2.3.3. Income Statement
- 9.2.3.2.3.4. Statement of Cash Flow
- 9.2.3.2.3.5. Statement of Stockholder's Equity of Fund Balance
- 9.2.3.2.3.6. Complete Financial Notes
- 9.2.3.2.3.7. Consolidating and Supplemental Financial Schedules

9.2.3.2.4. A Bidder which is part of a consolidated financial statement, may file the audited consolidated financial statements if it includes the consolidating schedules as supplemental information. A Bidder, which is part of a consolidated financial statement, but whose certified consolidated financial statements do not contain the consolidating schedules as supplemental information, shall, in addition to the audited consolidated financial statements, file unaudited financial statements for the Bidder alone accompanied by a certificate of authenticity signed by an officer of the corporation, partner, or owner under penalty of unsworn falsification which attests that the financial statements are correct in all material respects.

9.2.3.2.5. If a Bidder is not otherwise required by either state or federal statute to obtain a certification of audit of its financial statements, and thereby elects not to obtain such certification of audit, the bidder shall submit as part of its proposal:

- a. Uncertified financial statements; and
- b. A certificate of authenticity which attests that the financial statements are correct in all material respects and is signed by an officer of the corporation, partner, or owner under penalty of unsworn falsification.

9.2.3.3. Required Attachments

The following are required statements that must be included with the Cost Proposal. The Bidder must complete the correlating forms found in the RFP Appendices and submit them as the "Required Attachments" section of the Cost Proposal. (Electronic versions are available of Appendices.)

9.2.3.3.1. **Appendix C** – Deliverable Schedule and Pricing and Deliverable Schedule Narrative that explains each line in Appendix C, Deliverable Schedule and Pricing.

9.2.3.3.2. **Appendix D** – Management Questionnaire



10. MANDATORY BUSINESS SPECIFICATIONS

10.1. Contract Terms and Conditions

- 10.1.1. The State of New Hampshire sample contract is attached; Bidder to agree to minimum requirement as set forth in the Appendix B.

11. ADDITIONAL INFORMATION

11.1. Appendix A – Exceptions to Terms and Conditions

11.2. Appendix B – Contract Minimum Requirements (Sample Contract)

Note: For reference only. Please do not return Appendix B with proposals.

11.3. Appendix C – Deliverables Schedule and Pricing (Electronic version available)

11.4. Appendix D – Management Questionnaire

EXCEPTIONS TO TERMS AND CONDITIONS

RESPONDERS ARE CAUTIONED THAT BY TAKING ANY EXCEPTION THEY MAY BE MATERIALLY DEVIATING FROM THE RFP SPECIFICATIONS. IF A RESPONDER MATERIALLY DEVIATES FROM A RFP SPECIFICATION, ITS PROPOSAL MAY BE REJECTED.

INSTRUCTIONS: Responders must explicitly list all exceptions to State of NH minimum terms and conditions. Reference the actual number of the State's term and condition and Exhibit number for which an exception(s) is being taken. If no exceptions exist, state "NONE" specifically on the form below. Whether or not exceptions are taken, the Responder must sign and date this form and submit it as part of their Proposal. *(Add additional pages if necessary.)*

| | |
|--|---------------------------------|
| Responder Name: | |
| <u>Term & Condition Number/Provision</u> | <u>Explanation of Exception</u> |

Date _____

Subject: _____

Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS**1. IDENTIFICATION.**

| | | | |
|--|--------------------|---|----------------------|
| 1.1 State Agency Name | | 1.2 State Agency Address | |
| 1.3 Contractor Name | | 1.4 Contractor Address | |
| 1.5 Contractor Phone Number | 1.6 Account Number | 1.7 Completion Date | 1.8 Price Limitation |
| 1.9 Contracting Officer for State Agency | | 1.10 State Agency Telephone Number | |
| 1.11 Contractor Signature | | 1.12 Name and Title of Contractor Signatory | |
| 1.13 Acknowledgement: State of _____, County of _____ On _____, before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12. | | | |
| 1.13.1 Signature of Notary Public or Justice of the Peace | | | |
| [Seal] | | | |
| 1.13.2 Name and Title of Notary or Justice of the Peace | | | |
| 1.14 State Agency Signature | | 1.15 Name and Title of State Agency Signatory | |
| Date: | | | |
| 1.16 Approval by the N.H. Department of Administration, Division of Personnel <i>(if applicable)</i> | | | |
| By: | | Director, On: | |
| 1.17 Approval by the Attorney General (Form, Substance and Execution) <i>(if applicable)</i> | | | |
| By: | | On: | |
| 1.18 Approval by the Governor and Executive Council <i>(if applicable)</i> | | | |
| By: | | On: | |

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

10. TERMINATION. In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. CONTRACTOR'S RELATION TO THE STATE. In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.

The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

13. INDEMNIFICATION. The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate ; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A (*"Workers' Compensation"*).

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no

such approval is required under the circumstances pursuant to State law, rule or policy.

19. CONSTRUCTION OF AGREEMENT AND TERMS.

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.



SPECIAL PROVISIONS

Contractors Obligations: The Contractor covenants and agrees that all funds received by the Contractor under the Contract shall be used only as payment to the Contractor for services provided to eligible individuals and, in the furtherance of the aforesaid covenants, the Contractor hereby covenants and agrees as follows:

1. **Compliance with Federal and State Laws:** If the Contractor is permitted to determine the eligibility of individuals such eligibility determination shall be made in accordance with applicable federal and state laws, regulations, orders, guidelines, policies and procedures.
2. **Time and Manner of Determination:** Eligibility determinations shall be made on forms provided by the Department for that purpose and shall be made and remade at such times as are prescribed by the Department.
3. **Documentation:** In addition to the determination forms required by the Department, the Contractor shall maintain a data file on each recipient of services hereunder, which file shall include all information necessary to support an eligibility determination and such other information as the Department requests. The Contractor shall furnish the Department with all forms and documentation regarding eligibility determinations that the Department may request or require.
4. **Fair Hearings:** The Contractor understands that all applicants for services hereunder, as well as individuals declared ineligible have a right to a fair hearing regarding that determination. The Contractor hereby covenants and agrees that all applicants for services shall be permitted to fill out an application form and that each applicant or re-applicant shall be informed of his/her right to a fair hearing in accordance with Department regulations.
5. **Gratuities or Kickbacks:** The Contractor agrees that it is a breach of this Contract to accept or make a payment, gratuity or offer of employment on behalf of the Contractor, any Sub-Contractor or the State in order to influence the performance of the Scope of Work detailed in Exhibit A of this Contract. The State may terminate this Contract and any sub-contract or sub-agreement if it is determined that payments, gratuities or offers of employment of any kind were offered or received by any officials, officers, employees or agents of the Contractor or Sub-Contractor.
6. **Retroactive Payments:** Notwithstanding anything to the contrary contained in the Contract or in any other document, contract or understanding, it is expressly understood and agreed by the parties hereto, that no payments will be made hereunder to reimburse the Contractor for costs incurred for any purpose or for any services provided to any individual prior to the Effective Date of the Contract and no payments shall be made for expenses incurred by the Contractor for any services provided prior to the date on which the individual applies for services or (except as otherwise provided by the federal regulations) prior to a determination that the individual is eligible for such services.
7. **Conditions of Purchase:** Notwithstanding anything to the contrary contained in the Contract, nothing herein contained shall be deemed to obligate or require the Department to purchase services hereunder at a rate which reimburses the Contractor in excess of the Contractors costs, at a rate which exceeds the amounts reasonable and necessary to assure the quality of such service, or at a rate which exceeds the rate charged by the Contractor to ineligible individuals or other third party funders for such service. If at any time during the term of this Contract or after receipt of the Final Expenditure Report hereunder, the Department shall determine that the Contractor has used payments hereunder to reimburse items of expense other than such costs, or has received payment in excess of such costs or in excess of such rates charged by the Contractor to ineligible individuals or other third party funders, the Department may elect to:
 - 7.1. Renegotiate the rates for payment hereunder, in which event new rates shall be established;
 - 7.2. Deduct from any future payment to the Contractor the amount of any prior reimbursement in excess of costs;



- 7.3. Demand repayment of the excess payment by the Contractor in which event failure to make such repayment shall constitute an Event of Default hereunder. When the Contractor is permitted to determine the eligibility of individuals for services, the Contractor agrees to reimburse the Department for all funds paid by the Department to the Contractor for services provided to any individual who is found by the Department to be ineligible for such services at any time during the period of retention of records established herein.

RECORDS: MAINTENANCE, RETENTION, AUDIT, DISCLOSURE AND CONFIDENTIALITY:

8. **Maintenance of Records:** In addition to the eligibility records specified above, the Contractor covenants and agrees to maintain the following records during the Contract Period:
- 8.1. **Fiscal Records:** books, records, documents and other data evidencing and reflecting all costs and other expenses incurred by the Contractor in the performance of the Contract, and all income received or collected by the Contractor during the Contract Period, said records to be maintained in accordance with accounting procedures and practices which sufficiently and properly reflect all such costs and expenses, and which are acceptable to the Department, and to include, without limitation, all ledgers, books, records, and original evidence of costs such as purchase requisitions and orders, vouchers, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls, and other records requested or required by the Department.
 - 8.2. **Statistical Records:** Statistical, enrollment, attendance or visit records for each recipient of services during the Contract Period, which records shall include all records of application and eligibility (including all forms required to determine eligibility for each such recipient), records regarding the provision of services and all invoices submitted to the Department to obtain payment for such services.
 - 8.3. **Medical Records:** Where appropriate and as prescribed by the Department regulations, the Contractor shall retain medical records on each patient/recipient of services.
9. **Audit:** Contractor shall submit an annual audit to the Department within 60 days after the close of the agency fiscal year. It is recommended that the report be prepared in accordance with the provision of Office of Management and Budget Circular A-133, "Audits of States, Local Governments, and Non Profit Organizations" and the provisions of Standards for Audit of Governmental Organizations, Programs, Activities and Functions, issued by the US General Accounting Office (GAO standards) as they pertain to financial compliance audits.
- 9.1. **Audit and Review:** During the term of this Contract and the period for retention hereunder, the Department, the United States Department of Health and Human Services, and any of their designated representatives shall have access to all reports and records maintained pursuant to the Contract for purposes of audit, examination, excerpts and transcripts.
 - 9.2. **Audit Liabilities:** In addition to and not in any way in limitation of obligations of the Contract, it is understood and agreed by the Contractor that the Contractor shall be held liable for any state or federal audit exceptions and shall return to the Department, all payments made under the Contract to which exception has been taken or which have been disallowed because of such an exception.
10. **Confidentiality of Records:** All information, reports, and records maintained hereunder or collected in connection with the performance of the services and the Contract shall be confidential and shall not be disclosed by the Contractor, provided however, that pursuant to state laws and the regulations of the Department regarding the use and disclosure of such information, disclosure may be made to public officials requiring such information in connection with their official duties and for purposes directly connected to the administration of the services and the Contract; and provided further, that the use or disclosure by any party of any information concerning a recipient for any purpose not directly connected with the administration of the Department or the Contractor's responsibilities with respect to purchased services hereunder is prohibited except on written consent of the recipient, his attorney or guardian.



Notwithstanding anything to the contrary contained herein the covenants and conditions contained in the Paragraph shall survive the termination of the Contract for any reason whatsoever.

11. **Reports:** Fiscal and Statistical: The Contractor agrees to submit the following reports at the following times if requested by the Department.
 - 11.1. Interim Financial Reports: Written interim financial reports containing a detailed description of all costs and non-allowable expenses incurred by the Contractor to the date of the report and containing such other information as shall be deemed satisfactory by the Department to justify the rate of payment hereunder. Such Financial Reports shall be submitted on the form designated by the Department or deemed satisfactory by the Department.
 - 11.2. Final Report: A final report shall be submitted within thirty (30) days after the end of the term of this Contract. The Final Report shall be in a form satisfactory to the Department and shall contain a summary statement of progress toward goals and objectives stated in the Proposal and other information required by the Department.
12. **Completion of Services:** Disallowance of Costs: Upon the purchase by the Department of the maximum number of units provided for in the Contract and upon payment of the price limitation hereunder, the Contract and all the obligations of the parties hereunder (except such obligations as, by the terms of the Contract are to be performed after the end of the term of this Contract and/or survive the termination of the Contract) shall terminate, provided however, that if, upon review of the Final Expenditure Report the Department shall disallow any expenses claimed by the Contractor as costs hereunder the Department shall retain the right, at its discretion, to deduct the amount of such expenses as are disallowed or to recover such sums from the Contractor.
13. **Credits:** All documents, notices, press releases, research reports and other materials prepared during or resulting from the performance of the services of the Contract shall include the following statement:
 - 13.1. The preparation of this (report, document etc.) was financed under a Contract with the State of New Hampshire, Department of Health and Human Services, with funds provided in part by the State of New Hampshire and/or such other funding sources as were available or required, e.g., the United States Department of Health and Human Services.
14. **Prior Approval and Copyright Ownership:** All materials (written, video, audio) produced or purchased under the contract shall have prior approval from DHHS before printing, production, distribution or use. The DHHS will retain copyright ownership for any and all original materials produced, including, but not limited to, brochures, resource directories, protocols or guidelines, posters, or reports. Contractor shall not reproduce any materials produced under the contract without prior written approval from DHHS.
15. **Operation of Facilities: Compliance with Laws and Regulations:** In the operation of any facilities for providing services, the Contractor shall comply with all laws, orders and regulations of federal, state, county and municipal authorities and with any direction of any Public Officer or officers pursuant to laws which shall impose an order or duty upon the contractor with respect to the operation of the facility or the provision of the services at such facility. If any governmental license or permit shall be required for the operation of the said facility or the performance of the said services, the Contractor will procure said license or permit, and will at all times comply with the terms and conditions of each such license or permit. In connection with the foregoing requirements, the Contractor hereby covenants and agrees that, during the term of this Contract the facilities shall comply with all rules, orders, regulations, and requirements of the State Office of the Fire Marshal and the local fire protection agency, and shall be in conformance with local building and zoning codes, by-laws and regulations.
16. **Equal Employment Opportunity Plan (EEOP):** The Contractor will provide an Equal Employment Opportunity Plan (EEOP) to the Office for Civil Rights, Office of Justice Programs (OCR), if it has received a single award of \$500,000 or more. If the recipient receives \$25,000 or more and has 50 or



more employees, it will maintain a current EEOP on file and submit an EEOP Certification Form to the OCR, certifying that its EEOP is on file. For recipients receiving less than \$25,000, or public grantees with fewer than 50 employees, regardless of the amount of the award, the recipient will provide an EEOP Certification Form to the OCR certifying it is not required to submit or maintain an EEOP. Non-profit organizations, Indian Tribes, and medical and educational institutions are exempt from the EEOP requirement, but are required to submit a certification form to the OCR to claim the exemption. EEOP Certification Forms are available at: <http://www.ojp.usdoj/about/ocr/pdfs/cert.pdf>.

17. **Limited English Proficiency (LEP):** As clarified by Executive Order 13166, Improving Access to Services for persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with the Omnibus Crime Control and Safe Streets Act of 1968 and Title VI of the Civil Rights Act of 1964, Contractors must take reasonable steps to ensure that LEP persons have meaningful access to its programs.

18. **Pilot Program for Enhancement of Contractor Employee Whistleblower Protections:** The following shall apply to all contracts that exceed the Simplified Acquisition Threshold as defined in 48 CFR 2.101 (currently, \$150,000)

CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF
WHISTLEBLOWER RIGHTS (SEP 2013)

(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR 3.908.

(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.

19. **Subcontractors:** DHHS recognizes that the Contractor may choose to use subcontractors with greater expertise to perform certain health care services or functions for efficiency or convenience, but the Contractor shall retain the responsibility and accountability for the function(s). Prior to subcontracting, the Contractor shall evaluate the subcontractor's ability to perform the delegated function(s). This is accomplished through a written agreement that specifies activities and reporting responsibilities of the subcontractor and provides for revoking the delegation or imposing sanctions if the subcontractor's performance is not adequate. Subcontractors are subject to the same contractual conditions as the Contractor and the Contractor is responsible to ensure subcontractor compliance with those conditions.

When the Contractor delegates a function to a subcontractor, the Contractor shall do the following:

- 19.1. Evaluate the prospective subcontractor's ability to perform the activities, before delegating the function
- 19.2. Have a written agreement with the subcontractor that specifies activities and reporting responsibilities and how sanctions/revocation will be managed if the subcontractor's performance is not adequate
- 19.3. Monitor the subcontractor's performance on an ongoing basis



- 19.4. Provide to DHHS an annual schedule identifying all subcontractors, delegated functions and responsibilities, and when the subcontractor's performance will be reviewed
- 19.5. DHHS shall, at its discretion, review and approve all subcontracts.

If the Contractor identifies deficiencies or areas for improvement are identified, the Contractor shall take corrective action.

DEFINITIONS

As used in the Contract, the following terms shall have the following meanings:

COSTS: Shall mean those direct and indirect items of expense determined by the Department to be allowable and reimbursable in accordance with cost and accounting principles established in accordance with state and federal laws, regulations, rules and orders.

DEPARTMENT: NH Department of Health and Human Services.

FINANCIAL MANAGEMENT GUIDELINES: Shall mean that section of the Contractor Manual which is entitled "Financial Management Guidelines" and which contains the regulations governing the financial activities of contractor agencies which have contracted with the State of NH to receive funds.

PROPOSAL: If applicable, shall mean the document submitted by the Contractor on a form or forms required by the Department and containing a description of the Services to be provided to eligible individuals by the Contractor in accordance with the terms and conditions of the Contract and setting forth the total cost and sources of revenue for each service to be provided under the Contract.

UNIT: For each service that the Contractor is to provide to eligible individuals hereunder, shall mean that period of time or that specified activity determined by the Department and specified in Exhibit B of the Contract.

FEDERAL/STATE LAW: Wherever federal or state laws, regulations, rules, orders, and policies, etc. are referred to in the Contract, the said reference shall be deemed to mean all such laws, regulations, etc. as they may be amended or revised from the time to time.

CONTRACTOR MANUAL: Shall mean that document prepared by the NH Department of Administrative Services containing a compilation of all regulations promulgated pursuant to the New Hampshire Administrative Procedures Act. NH RSA Ch 541-A, for the purpose of implementing State of NH and federal regulations promulgated thereunder.

SUPPLANTING OTHER FEDERAL FUNDS: The Contractor guarantees that funds provided under this Contract will not supplant any existing federal funds available for these services.

**REVISIONS TO GENERAL PROVISIONS**

1. Subparagraph 4 of the General Provisions of this contract, Conditional Nature of Agreement, is replaced as follows:
 4. **CONDITIONAL NATURE OF AGREEMENT.**
Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments, in whole or in part, under this Agreement are contingent upon continued appropriation or availability of funds, including any subsequent changes to the appropriation or availability of funds affected by any state or federal legislative or executive action that reduces, eliminates, or otherwise modifies the appropriation or availability of funding for this Agreement and the Scope of Services provided in Exhibit A, Scope of Services, in whole or in part. In no event shall the State be liable for any payments hereunder in excess of appropriated or available funds. In the event of a reduction, termination or modification of appropriated or available funds, the State shall have the right to withhold payment until such funds become available, if ever. The State shall have the right to reduce, terminate or modify services under this Agreement immediately upon giving the Contractor notice of such reduction, termination or modification. The State shall not be required to transfer funds from any other source or account into the Account(s) identified in block 1.6 of the General Provisions, Account Number, or any other account, in the event funds are reduced or unavailable.
2. Subparagraph 10 of the General Provisions of this contract, Termination, is amended by adding the following language:
 - 10.1 The State may terminate the Agreement at any time for any reason, at the sole discretion of the State, 30 days after giving the Contractor written notice that the State is exercising its option to terminate the Agreement.
 - 10.2 In the event of early termination, the Contractor shall, within 15 days of notice of early termination, develop and submit to the State a Transition Plan for services under the Agreement, including but not limited to, identifying the present and future needs of clients receiving services under the Agreement and establishes a process to meet those needs.
 - 10.3 The Contractor shall fully cooperate with the State and shall promptly provide detailed information to support the Transition Plan including, but not limited to, any information or data requested by the State related to the termination of the Agreement and Transition Plan and shall provide ongoing communication and revisions of the Transition Plan to the State as requested.
 - 10.4 In the event that services under the Agreement, including but not limited to clients receiving services under the Agreement are transitioned to having services delivered by another entity including contracted providers or the State, the Contractor shall provide a process for uninterrupted delivery of services in the Transition Plan.
 - 10.5 The Contractor shall establish a method of notifying clients and other affected individuals about the transition. The Contractor shall include the proposed communications in its Transition Plan submitted to the State as described above.



CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

ALTERNATIVE I - FOR GRANTEES OTHER THAN INDIVIDUALS

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS **US DEPARTMENT OF EDUCATION - CONTRACTORS** **US DEPARTMENT OF AGRICULTURE - CONTRACTORS**

This certification is required by the regulations implementing Sections 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.). The January 31, 1989 regulations were amended and published as Part II of the May 25, 1990 Federal Register (pages 21681-21691), and require certification by grantees (and by inference, sub-grantees and sub-contractors), prior to award, that they will maintain a drug-free workplace. Section 3017.630(c) of the regulation provides that a grantee (and by inference, sub-grantees and sub-contractors) that is a State may elect to make one certification to the Department in each federal fiscal year in lieu of certificates for each grant during the federal fiscal year covered by the certification. The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment. Contractors using this form should send it to:

Commissioner
 NH Department of Health and Human Services
 129 Pleasant Street,
 Concord, NH 03301-6505

1. The grantee certifies that it will or will continue to provide a drug-free workplace by:
 - 1.1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - 1.2. Establishing an ongoing drug-free awareness program to inform employees about
 - 1.2.1. The dangers of drug abuse in the workplace;
 - 1.2.2. The grantee's policy of maintaining a drug-free workplace;
 - 1.2.3. Any available drug counseling, rehabilitation, and employee assistance programs; and
 - 1.2.4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - 1.3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
 - 1.4. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will
 - 1.4.1. Abide by the terms of the statement; and
 - 1.4.2. Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - 1.5. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph 1.4.2 from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency

Appendix B
New Hampshire Department of Health and Human Services
Exhibit D



- has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- 1.6. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph 1.4.2, with respect to any employee who is so convicted
 - 1.6.1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - 1.6.2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 - 1.7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs 1.1, 1.2, 1.3, 1.4, 1.5, and 1.6.
2. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant.

Place of Performance (street address, city, county, state, zip code) (list each location)

Check ☐ if there are workplaces on file that are not identified here.

Contractor Name:

Date

Name:
Title:

**CERTIFICATION REGARDING LOBBYING**

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Section 319 of Public Law 101-121, Government wide Guidance for New Restrictions on Lobbying, and 31 U.S.C. 1352, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

US DEPARTMENT OF HEALTH AND HUMAN SERVICES - CONTRACTORS
US DEPARTMENT OF EDUCATION - CONTRACTORS
US DEPARTMENT OF AGRICULTURE - CONTRACTORS

Programs (indicate applicable program covered):

- *Temporary Assistance to Needy Families under Title IV-A
- *Child Support Enforcement Program under Title IV-D
- *Social Services Block Grant Program under Title XX
- *Medicaid Program under Title XIX
- *Community Services Block Grant under Title VI
- *Child Care Development Block Grant under Title IV

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor).
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement (and by specific mention sub-grantee or sub-contractor), the undersigned shall complete and submit Standard Form LLL, (Disclosure Form to Report Lobbying, in accordance with its instructions, attached and identified as Standard Exhibit E-I.)
3. The undersigned shall require that the language of this certification be included in the award document for sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Contractor Name: _____

Date

Name:
Title:



**CERTIFICATION REGARDING DEBARMENT, SUSPENSION
AND OTHER RESPONSIBILITY MATTERS**

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of Executive Office of the President, Executive Order 12549 and 45 CFR Part 76 regarding Debarment, Suspension, and Other Responsibility Matters, and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal (contract), the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the NH Department of Health and Human Services' (DHHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when DHHS determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, DHHS may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the DHHS agency to whom this proposal (contract) is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549: 45 CFR Part 76. See the attached definitions.
6. The prospective primary participant agrees by submitting this proposal (contract) that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DHHS.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," provided by DHHS, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or involuntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List (of excluded parties).
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and



information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, DHHS may terminate this transaction for cause or default.

PRIMARY COVERED TRANSACTIONS

11. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- 11.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - 11.2. have not within a three-year period preceding this proposal (contract) been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or a contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - 11.3. are not presently indicted for otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (I)(b) of this certification; and
 - 11.4. have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
12. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal (contract).

LOWER TIER COVERED TRANSACTIONS

13. By signing and submitting this lower tier proposal (contract), the prospective lower tier participant, as defined in 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:
- 13.1. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
 - 13.2. where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal (contract).
14. The prospective lower tier participant further agrees by submitting this proposal (contract) that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Contractor Name:

Date

Name:
Title:



**CERTIFICATION OF COMPLIANCE WITH REQUIREMENTS PERTAINING TO
 FEDERAL NONDISCRIMINATION, EQUAL TREATMENT OF FAITH-BASED ORGANIZATIONS AND
 WHISTLEBLOWER PROTECTIONS**

The Contractor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

Contractor will comply, and will require any subgrantees or subcontractors to comply, with any applicable federal nondiscrimination requirements, which may include:

- the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. Section 3789d) which prohibits recipients of federal funding under this statute from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act requires certain recipients to produce an Equal Employment Opportunity Plan;
- the Juvenile Justice Delinquency Prevention Act of 2002 (42 U.S.C. Section 5672(b)) which adopts by reference, the civil rights obligations of the Safe Streets Act. Recipients of federal funding under this statute are prohibited from discriminating, either in employment practices or in the delivery of services or benefits, on the basis of race, color, religion, national origin, and sex. The Act includes Equal Employment Opportunity Plan requirements;
- the Civil Rights Act of 1964 (42 U.S.C. Section 2000d, which prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin in any program or activity);
- the Rehabilitation Act of 1973 (29 U.S.C. Section 794), which prohibits recipients of Federal financial assistance from discriminating on the basis of disability, in regard to employment and the delivery of services or benefits, in any program or activity;
- the Americans with Disabilities Act of 1990 (42 U.S.C. Sections 12131-34), which prohibits discrimination and ensures equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation;
- the Education Amendments of 1972 (20 U.S.C. Sections 1681, 1683, 1685-86), which prohibits discrimination on the basis of sex in federally assisted education programs;
- the Age Discrimination Act of 1975 (42 U.S.C. Sections 6106-07), which prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. It does not include employment discrimination;
- 28 C.F.R. pt. 31 (U.S. Department of Justice Regulations – OJJDP Grant Programs); 28 C.F.R. pt. 42 (U.S. Department of Justice Regulations – Nondiscrimination; Equal Employment Opportunity; Policies and Procedures); Executive Order No. 13279 (equal protection of the laws for faith-based and community organizations); Executive Order No. 13559, which provide fundamental principles and policy-making criteria for partnerships with faith-based and neighborhood organizations;
- 28 C.F.R. pt. 38 (U.S. Department of Justice Regulations – Equal Treatment for Faith-Based Organizations); and Whistleblower protections 41 U.S.C. §4712 and The National Defense Authorization Act (NDAA) for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013) the Pilot Program for Enhancement of Contract Employee Whistleblower Protections, which protects employees against reprisal for certain whistle blowing activities in connection with federal grants and contracts.

The certificate set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or government wide suspension or debarment.

Exhibit G

Contractor Initials _____

Certification of Compliance with requirements pertaining to Federal Nondiscrimination, Equal Treatment of Faith-Based Organizations
and Whistleblower protections

Appendix B
New Hampshire Department of Health and Human Services
Exhibit G



In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, or sex against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, to the applicable contracting agency or division within the Department of Health and Human Services, and to the Department of Health and Human Services Office of the Ombudsman.

The Contractor identified in Section 1.3 of the General Provisions agrees by signature of the Contractor's representative as identified in Sections 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this proposal (contract) the Contractor agrees to comply with the provisions indicated above.

Contractor Name: _____

Date

Name:
Title:

Exhibit G

Contractor Initials _____

Certification of Compliance with requirements pertaining to Federal Nondiscrimination, Equal Treatment of Faith-Based Organizations
and Whistleblower protections

Appendix B
New Hampshire Department of Health and Human Services
Exhibit H



CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

Public Law 103-227, Part C - Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

The Contractor identified in Section 1.3 of the General Provisions agrees, by signature of the Contractor's representative as identified in Section 1.11 and 1.12 of the General Provisions, to execute the following certification:

1. By signing and submitting this contract, the Contractor agrees to make reasonable efforts to comply with all applicable provisions of Public Law 103-227, Part C, known as the Pro-Children Act of 1994.

Contractor Name:

Date

Name:
Title:



Exhibit I

HEALTH INSURANCE PORTABILITY ACT
BUSINESS ASSOCIATE AGREEMENT

The Contractor identified in Section 1.3 of the General Provisions of the Agreement agrees to comply with the Health Insurance Portability and Accountability Act, Public Law 104-191 and with the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160 and 164 applicable to business associates. As defined herein, "Business Associate" shall mean the Contractor and subcontractors and agents of the Contractor that receive, use or have access to protected health information under this Agreement and "Covered Entity" shall mean the State of New Hampshire, Department of Health and Human Services.

(1) Definitions.

- a. "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.
- b. "Business Associate" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- c. "Covered Entity" has the meaning given such term in section 160.103 of Title 45, Code of Federal Regulations.
- d. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 CFR Section 164.501.
- e. "Data Aggregation" shall have the same meaning as the term "data aggregation" in 45 CFR Section 164.501.
- f. "Health Care Operations" shall have the same meaning as the term "health care operations" in 45 CFR Section 164.501.
- g. "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act, Title XIII, Subtitle D, Part 1 & 2 of the American Recovery and Reinvestment Act of 2009.
- h. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191 and the Standards for Privacy and Security of Individually Identifiable Health Information, 45 CFR Parts 160, 162 and 164 and amendments thereto.
- i. "Individual" shall have the same meaning as the term "individual" in 45 CFR Section 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR Section 164.501(g).
- j. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.
- k. "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR Section 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.



Exhibit I

- l. "Required by Law" shall have the same meaning as the term "required by law" in 45 CFR Section 164.103.
- m. "Secretary" shall mean the Secretary of the Department of Health and Human Services or his/her designee.
- n. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 CFR Part 164, Subpart C, and amendments thereto.
- o. "Unsecured Protected Health Information" means protected health information that is not secured by a technology standard that renders protected health information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.
- p. Other Definitions - All terms not otherwise defined herein shall have the meaning established under 45 C.F.R. Parts 160, 162 and 164, as amended from time to time, and the HITECH Act.

(2) **Business Associate Use and Disclosure of Protected Health Information.**

- a. Business Associate shall not use, disclose, maintain or transmit Protected Health Information (PHI) except as reasonably necessary to provide the services outlined under Exhibit A of the Agreement. Further, Business Associate, including but not limited to all its directors, officers, employees and agents, shall not use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.
- b. Business Associate may use or disclose PHI:
- I. For the proper management and administration of the Business Associate;
 - II. As required by law, pursuant to the terms set forth in paragraph d. below; or
 - III. For data aggregation purposes for the health care operations of Covered Entity.
- c. To the extent Business Associate is permitted under the Agreement to disclose PHI to a third party, Business Associate must obtain, prior to making any such disclosure, (i) reasonable assurances from the third party that such PHI will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the third party; and (ii) an agreement from such third party to notify Business Associate, in accordance with the HIPAA Privacy, Security, and Breach Notification Rules of any breaches of the confidentiality of the PHI, to the extent it has obtained knowledge of such breach.
- d. The Business Associate shall not, unless such disclosure is reasonably necessary to provide services under Exhibit A of the Agreement, disclose any PHI in response to a request for disclosure on the basis that it is required by law, without first notifying Covered Entity so that Covered Entity has an opportunity to object to the disclosure and to seek appropriate relief. If Covered Entity objects to such disclosure, the Business



Exhibit I

Associate shall refrain from disclosing the PHI until Covered Entity has exhausted all remedies.

- e. If the Covered Entity notifies the Business Associate that Covered Entity has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Business Associate shall be bound by such additional restrictions and shall not disclose PHI in violation of such additional restrictions and shall abide by any additional security safeguards.

(3) **Obligations and Activities of Business Associate.**

- a. The Business Associate shall notify the Covered Entity's Privacy Officer immediately after the Business Associate becomes aware of any use or disclosure of protected health information not provided for by the Agreement including breaches of unsecured protected health information and/or any security incident that may have an impact on the protected health information of the Covered Entity.
- b. The Business Associate shall immediately perform a risk assessment when it becomes aware of any of the above situations. The risk assessment shall include, but not be limited to:
- o The nature and extent of the protected health information involved, including the types of identifiers and the likelihood of re-identification;
 - o The unauthorized person used the protected health information or to whom the disclosure was made;
 - o Whether the protected health information was actually acquired or viewed
 - o The extent to which the risk to the protected health information has been mitigated.

The Business Associate shall complete the risk assessment within 48 hours of the breach and immediately report the findings of the risk assessment in writing to the Covered Entity.

- c. The Business Associate shall comply with all sections of the Privacy, Security, and Breach Notification Rule.
- d. Business Associate shall make available all of its internal policies and procedures, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of Covered Entity to the Secretary for purposes of determining Covered Entity's compliance with HIPAA and the Privacy and Security Rule.
- e. Business Associate shall require all of its business associates that receive, use or have access to PHI under the Agreement, to agree in writing to adhere to the same restrictions and conditions on the use and disclosure of PHI contained herein, including the duty to return or destroy the PHI as provided under Section 3 (I). The Covered Entity shall be considered a direct third party beneficiary of the Contractor's business associate agreements with Contractor's intended business associates, who will be receiving PHI

**Exhibit I**

pursuant to this Agreement, with rights of enforcement and indemnification from such business associates who shall be governed by standard Paragraph #13 of the standard contract provisions (P-37) of this Agreement for the purpose of use and disclosure of protected health information.

- f. Within five (5) business days of receipt of a written request from Covered Entity, Business Associate shall make available during normal business hours at its offices all records, books, agreements, policies and procedures relating to the use and disclosure of PHI to the Covered Entity, for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of the Agreement.
- g. Within ten (10) business days of receiving a written request from Covered Entity, Business Associate shall provide access to PHI in a Designated Record Set to the Covered Entity, or as directed by Covered Entity, to an individual in order to meet the requirements under 45 CFR Section 164.524.
- h. Within ten (10) business days of receiving a written request from Covered Entity for an amendment of PHI or a record about an individual contained in a Designated Record Set, the Business Associate shall make such PHI available to Covered Entity for amendment and incorporate any such amendment to enable Covered Entity to fulfill its obligations under 45 CFR Section 164.526.
- i. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR Section 164.528.
- j. Within ten (10) business days of receiving a written request from Covered Entity for a request for an accounting of disclosures of PHI, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill its obligations to provide an accounting of disclosures with respect to PHI in accordance with 45 CFR Section 164.528.
- k. In the event any individual requests access to, amendment of, or accounting of PHI directly from the Business Associate, the Business Associate shall within two (2) business days forward such request to Covered Entity. Covered Entity shall have the responsibility of responding to forwarded requests. However, if forwarding the individual's request to Covered Entity would cause Covered Entity or the Business Associate to violate HIPAA and the Privacy and Security Rule, the Business Associate shall instead respond to the individual's request as required by such law and notify Covered Entity of such response as soon as practicable.
- l. Within ten (10) business days of termination of the Agreement, for any reason, the Business Associate shall return or destroy, as specified by Covered Entity, all PHI received from, or created or received by the Business Associate in connection with the Agreement, and shall not retain any copies or back-up tapes of such PHI. If return or destruction is not feasible, or the disposition of the PHI has been otherwise agreed to in the Agreement, Business Associate shall continue to extend the protections of the Agreement, to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business



Exhibit I

Associate maintains such PHI. If Covered Entity, in its sole discretion, requires that the Business Associate destroy any or all PHI, the Business Associate shall certify to Covered Entity that the PHI has been destroyed.

(4) Obligations of Covered Entity

- a. Covered Entity shall notify Business Associate of any changes or limitation(s) in its Notice of Privacy Practices provided to individuals in accordance with 45 CFR Section 164.520, to the extent that such change or limitation may affect Business Associate's use or disclosure of PHI.
- b. Covered Entity shall promptly notify Business Associate of any changes in, or revocation of permission provided to Covered Entity by individuals whose PHI may be used or disclosed by Business Associate under this Agreement, pursuant to 45 CFR Section 164.506 or 45 CFR Section 164.508.
- c. Covered entity shall promptly notify Business Associate of any restrictions on the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

(5) Termination for Cause

In addition to Paragraph 10 of the standard terms and conditions (P-37) of this Agreement the Covered Entity may immediately terminate the Agreement upon Covered Entity's knowledge of a breach by Business Associate of the Business Associate Agreement set forth herein as Exhibit I. The Covered Entity may either immediately terminate the Agreement or provide an opportunity for Business Associate to cure the alleged breach within a timeframe specified by Covered Entity. If Covered Entity determines that neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

(6) Miscellaneous

- a. Definitions and Regulatory References. All terms used, but not otherwise defined herein, shall have the same meaning as those terms in the Privacy and Security Rule, amended from time to time. A reference in the Agreement, as amended to include this Exhibit I, to a Section in the Privacy and Security Rule means the Section as in effect or as amended.
- b. Amendment. Covered Entity and Business Associate agree to take such action as is necessary to amend the Agreement, from time to time as is necessary for Covered Entity to comply with the changes in the requirements of HIPAA, the Privacy and Security Rule, and applicable federal and state law.
- c. Data Ownership. The Business Associate acknowledges that it has no ownership rights with respect to the PHI provided by or created on behalf of Covered Entity.
- d. Interpretation. The parties agree that any ambiguity in the Agreement shall be resolved to permit Covered Entity to comply with HIPAA, the Privacy and Security Rule.



Exhibit I

- e. Segregation. If any term or condition of this Exhibit I or the application thereof to any person(s) or circumstance is held invalid, such invalidity shall not affect other terms or conditions which can be given effect without the invalid term or condition; to this end the terms and conditions of this Exhibit I are declared severable.
- f. Survival. Provisions in this Exhibit I regarding the use and disclosure of PHI, return or destruction of PHI, extensions of the protections of the Agreement in section (3) I, the defense and indemnification provisions of section (3) e and Paragraph 13 of the standard terms and conditions (P-37), shall survive the termination of the Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Exhibit I.

The State

Name of the Contractor

Signature of Authorized Representative

Signature of Authorized Representative

Name of Authorized Representative

Name of Authorized Representative

Title of Authorized Representative

Title of Authorized Representative

Date

Date

**CERTIFICATION REGARDING THE FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY
ACT (FFATA) COMPLIANCE**

The Federal Funding Accountability and Transparency Act (FFATA) requires prime awardees of individual Federal grants equal to or greater than \$25,000 and awarded on or after October 1, 2010, to report on data related to executive compensation and associated first-tier sub-grants of \$25,000 or more. If the initial award is below \$25,000 but subsequent grant modifications result in a total award equal to or over \$25,000, the award is subject to the FFATA reporting requirements, as of the date of the award.

In accordance with 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), the Department of Health and Human Services (DHHS) must report the following information for any subaward or contract award subject to the FFATA reporting requirements:

1. Name of entity
2. Amount of award
3. Funding agency
4. NAICS code for contracts / CFDA program number for grants
5. Program source
6. Award title descriptive of the purpose of the funding action
7. Location of the entity
8. Principle place of performance
9. Unique identifier of the entity (DUNS #)
10. Total compensation and names of the top five executives if:
 - 10.1. More than 80% of annual gross revenues are from the Federal government, and those revenues are greater than \$25M annually and
 - 10.2. Compensation information is not already available through reporting to the SEC.

Prime grant recipients must submit FFATA required data by the end of the month, plus 30 days, in which the award or award amendment is made.

The Contractor identified in Section 1.3 of the General Provisions agrees to comply with the provisions of The Federal Funding Accountability and Transparency Act, Public Law 109-282 and Public Law 110-252, and 2 CFR Part 170 (Reporting Subaward and Executive Compensation Information), and further agrees to have the Contractor's representative, as identified in Sections 1.11 and 1.12 of the General Provisions execute the following Certification:

The below named Contractor agrees to provide needed information as outlined above to the NH Department of Health and Human Services and to comply with all applicable provisions of the Federal Financial Accountability and Transparency Act.

Contractor Name:

Date

Name:
Title:

**FORM A**

As the Contractor identified in Section 1.3 of the General Provisions, I certify that the responses to the below listed questions are true and accurate.

1. The DUNS number for your entity is: _____
2. In your business or organization's preceding completed fiscal year, did your business or organization receive (1) 80 percent or more of your annual gross revenue in U.S. federal contracts, subcontracts, loans, grants, sub-grants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?

_____ NO _____ YES

If the answer to #2 above is NO, stop here

If the answer to #2 above is YES, please answer the following:

3. Does the public have access to information about the compensation of the executives in your business or organization through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?

_____ NO _____ YES

If the answer to #3 above is YES, stop here

If the answer to #3 above is NO, please answer the following:

4. The names and compensation of the five most highly compensated officers in your business or organization are as follows:

| | |
|-------------|---------------|
| Name: _____ | Amount: _____ |
| Name: _____ | Amount: _____ |
| Name: _____ | Amount: _____ |
| Name: _____ | Amount: _____ |
| Name: _____ | Amount: _____ |

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



A. Definitions

The following terms may be reflected and have the described meaning in this document:

1. "Breach" means the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, unauthorized access, or any similar term referring to situations where persons other than authorized users and for an other than authorized purpose have access or potential access to personally identifiable information, whether physical or electronic. With regard to Protected Health Information, "Breach" shall have the same meaning as the term "Breach" in section 164.402 of Title 45, Code of Federal Regulations.
2. "Computer Security Incident" shall have the same meaning "Computer Security Incident" in section two (2) of NIST Publication 800-61, Computer Security Incident Handling Guide, National Institute of Standards and Technology, U.S. Department of Commerce.
3. "Confidential Information" or "Confidential Data" means all confidential information disclosed by one party to the other such as all medical, health, financial, public assistance benefits and personal information including without limitation, Substance Abuse Treatment Records, Case Records, Protected Health Information and Personally Identifiable Information.

Confidential Information also includes any and all information owned or managed by the State of NH - created, received from or on behalf of the Department of Health and Human Services (DHHS) or accessed in the course of performing contracted services - of which collection, disclosure, protection, and disposition is governed by state or federal law or regulation. This information includes, but is not limited to Protected Health Information (PHI), Personal Information (PI), Personal Financial Information (PFI), Federal Tax Information (FTI), Social Security Numbers (SSN), Payment Card Industry (PCI), and or other sensitive and confidential information.

4. "End User" means any person or entity (e.g., contractor, contractor's employee, business associate, subcontractor, other downstream user, etc.) that receives DHHS data or derivative data in accordance with the terms of this Contract.
5. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder.
6. "Incident" means an act that potentially violates an explicit or implied security policy, which includes attempts (either failed or successful) to gain unauthorized access to a system or its data, unwanted disruption or denial of service, the unauthorized use of a system for the processing or storage of data; and changes to system hardware, firmware, or software characteristics without the owner's knowledge, instruction, or

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



consent. Incidents include the loss of data through theft or device misplacement, loss or misplacement of hardcopy documents, and misrouting of physical or electronic mail, all of which may have the potential to put the data at risk of unauthorized access, use, disclosure, modification or destruction.

7. "Open Wireless Network" means any network or segment of a network that is not designated by the State of New Hampshire's Department of Information Technology or delegate as a protected network (designed, tested, and approved, by means of the State, to transmit) will be considered an open network and not adequately secure for the transmission of unencrypted PI, PFI, PHI or confidential DHHS data.
8. "Personal Information" (or "PI") means information which can be used to distinguish or trace an individual's identity, such as their name, social security number, personal information as defined in New Hampshire RSA 359-C:19, biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc.
9. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Parts 160 and 164, promulgated under HIPAA by the United States Department of Health and Human Services.
10. "Protected Health Information" (or "PHI") has the same meaning as provided in the definition of "Protected Health Information" in the HIPAA Privacy Rule at 45 C.F.R. § 160.103.
11. "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Part 164, Subpart C, and amendments thereto.
12. "Unsecured Protected Health Information" means Protected Health Information that is not secured by a technology standard that renders Protected Health Information unusable, unreadable, or indecipherable to unauthorized individuals and is developed or endorsed by a standards developing organization that is accredited by the American National Standards Institute.

I. RESPONSIBILITIES OF DHHS AND THE CONTRACTOR

A. Business Use and Disclosure of Confidential Information.

1. The Contractor must not use, disclose, maintain or transmit Confidential Information except as reasonably necessary as outlined under this Contract. Further, Contractor, including but not limited to all its directors, officers, employees and agents, must not

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



use, disclose, maintain or transmit PHI in any manner that would constitute a violation of the Privacy and Security Rule.

2. The Contractor must not disclose any Confidential Information in response to a request for disclosure on the basis that it is required by law, in response to a subpoena, etc., without first notifying DHHS so that DHHS has an opportunity to consent or object to the disclosure.
3. If DHHS notifies the Contractor that DHHS has agreed to be bound by additional restrictions over and above those uses or disclosures or security safeguards of PHI pursuant to the Privacy and Security Rule, the Contractor must be bound by such additional restrictions and must not disclose PHI in violation of such additional restrictions and must abide by any additional security safeguards.
4. The Contractor agrees that DHHS Data or derivative there from disclosed to an End User must only be used pursuant to the terms of this Contract.
5. The Contractor agrees DHHS Data obtained under this Contract may not be used for any other purposes that are not indicated in this Contract.
6. The Contractor agrees to grant access to the data to the authorized representatives of DHHS for the purpose of inspecting to confirm compliance with the terms of this Contract.

II. METHODS OF SECURE TRANSMISSION OF DATA

1. Application Encryption. If End User is transmitting DHHS data containing Confidential Data between applications, the Contractor attests the applications have been evaluated by an expert knowledgeable in cyber security and that said application's encryption capabilities ensure secure transmission via the internet.
2. Computer Disks and Portable Storage Devices. End User may not use computer disks or portable storage devices, such as a thumb drive, as a method of transmitting DHHS data.
3. Encrypted Email. End User may only employ email to transmit Confidential Data if email is encrypted and being sent to and being received by email addresses of persons authorized to receive such information.
4. Encrypted Web Site. If End User is employing the Web to transmit Confidential Data, the secure socket layers (SSL) must be used and the web site must be secure. SSL encrypts data transmitted via a Web site.
5. File Hosting Services, also known as File Sharing Sites. End User may not use file hosting services, such as Dropbox or Google Cloud Storage, to transmit Confidential Data.
6. Ground Mail Service. End User may only transmit Confidential Data via *certified* ground mail within the continental U.S. and when sent to a named individual.

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



7. Laptops and PDA. If End User is employing portable devices to transmit Confidential Data said devices must be encrypted and password-protected.
8. Open Wireless Networks. End User may not transmit Confidential Data via an open wireless network. End User must employ a virtual private network (VPN) when remotely transmitting via an open wireless network.
9. Remote User Communication. If End User is employing remote communication to access or transmit Confidential Data, a virtual private network (VPN) must be installed on the End User's mobile device(s) or laptop from which information will be transmitted or accessed.
10. SSH File Transfer Protocol (SFTP), also known as Secure File Transfer Protocol. If End User is employing an SFTP to transmit Confidential Data, End User will structure the Folder and access privileges to prevent inappropriate disclosure of information. SFTP folders and sub-folders used for transmitting Confidential Data will be coded for 24-hour auto-deletion cycle (i.e. Confidential Data will be deleted every 24 hours).
11. Wireless Devices. If End User is transmitting Confidential Data via wireless devices, all data must be encrypted to prevent inappropriate disclosure of information.

III. RETENTION AND DISPOSITION OF IDENTIFIABLE RECORDS

The Contractor will only retain the data and any derivative of the data for the duration of this Contract. After such time, the Contractor will have 30 days to destroy the data and any derivative in whatever form it may exist, unless, otherwise required by law or permitted under this Contract. To this end, the parties must:

A. Retention

1. The Contractor agrees it will not store, transfer or process data collected in connection with the services rendered under this Contract outside of the United States. This physical location requirement shall also apply in the implementation of cloud computing, cloud service or cloud storage capabilities, and includes backup data and Disaster Recovery locations.
2. The Contractor agrees to ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.
3. The Contractor agrees to provide security awareness and education for its End Users in support of protecting Department confidential information.
4. The Contractor agrees to retain all electronic and hard copies of Confidential Data in a secure location and identified in section IV. A.2

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



5. The Contractor agrees Confidential Data stored in a Cloud must be in a FedRAMP/HITECH compliant solution and comply with all applicable statutes and regulations regarding the privacy and security. All servers and devices must have currently-supported and hardened operating systems, the latest anti-viral, anti-hacker, anti-spam, anti-spyware, and anti-malware utilities. The environment, as a whole, must have aggressive intrusion-detection and firewall protection.
6. The Contractor agrees to and ensures its complete cooperation with the State's Chief Information Officer in the detection of any security vulnerability of the hosting infrastructure.

B. Disposition

1. If the Contractor will maintain any Confidential Information on its systems (or its sub-contractor systems), the Contractor will maintain a documented process for securely disposing of such data upon request or contract termination; and will obtain written certification for any State of New Hampshire data destroyed by the Contractor or any subcontractors as a part of ongoing, emergency, and or disaster recovery operations. When no longer in use, electronic media containing State of New Hampshire data shall be rendered unrecoverable via a secure wipe program in accordance with industry-accepted standards for secure deletion and media sanitization, or otherwise physically destroying the media (for example, degaussing) as described in NIST Special Publication 800-88, Rev 1, Guidelines for Media Sanitization, National Institute of Standards and Technology, U. S. Department of Commerce. The Contractor will document and certify in writing at time of the data destruction, and will provide written certification to the Department upon request. The written certification will include all details necessary to demonstrate data has been properly destroyed and validated. Where applicable, regulatory and professional standards for retention requirements will be jointly evaluated by the State and Contractor prior to destruction.
2. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to destroy all hard copies of Confidential Data using a secure method such as shredding.
3. Unless otherwise specified, within thirty (30) days of the termination of this Contract, Contractor agrees to completely destroy all electronic Confidential Data by means of data erasure, also known as secure data wiping.

IV. PROCEDURES FOR SECURITY

- A. Contractor agrees to safeguard the DHHS Data received under this Contract, and any derivative data or files, as follows:

New Hampshire Department of Health and Human Services**Exhibit K****DHHS Information Security Requirements**



1. The Contractor will maintain proper security controls to protect Department confidential information collected, processed, managed, and/or stored in the delivery of contracted services.
2. The Contractor will maintain policies and procedures to protect Department confidential information throughout the information lifecycle, where applicable, (from creation, transformation, use, storage and secure destruction) regardless of the media used to store the data (i.e., tape, disk, paper, etc.).
3. The Contractor will maintain appropriate authentication and access controls to contractor systems that collect, transmit, or store Department confidential information where applicable.
4. The Contractor will ensure proper security monitoring capabilities are in place to detect potential security events that can impact State of NH systems and/or Department confidential information for contractor provided systems.
5. The Contractor will provide regular security awareness and education for its End Users in support of protecting Department confidential information.
6. If the Contractor will be sub-contracting any core functions of the engagement supporting the services for State of New Hampshire, the Contractor will maintain a program of an internal process or processes that defines specific security expectations, and monitoring compliance to security requirements that at a minimum match those for the Contractor, including breach notification requirements.
7. The Contractor will work with the Department to sign and comply with all applicable State of New Hampshire and Department system access and authorization policies and procedures, systems access forms, and computer use agreements as part of obtaining and maintaining access to any Department system(s). Agreements will be completed and signed by the Contractor and any applicable sub-contractors prior to system access being authorized.
8. If the Department determines the Contractor is a Business Associate pursuant to 45 CFR 160.103, the Contractor will execute a HIPAA Business Associate Agreement (BAA) with the Department and is responsible for maintaining compliance with the agreement.
9. The Contractor will work with the Department at its request to complete a System Management Survey. The purpose of the survey is to enable the Department and Contractor to monitor for any changes in risks, threats, and vulnerabilities that may occur over the life of the Contractor engagement. The survey will be completed annually, or an alternate time frame at the Departments discretion with agreement by the Contractor, or the Department may request the survey be completed when the

New Hampshire Department of Health and Human Services**Exhibit K****DHHS Information Security Requirements**



scope of the engagement between the Department and the Contractor changes.

10. The Contractor will not store, knowingly or unknowingly, any State of New Hampshire or Department data offshore or outside the boundaries of the United States unless prior express written consent is obtained from the Information Security Office leadership member within the Department.
11. **Data Security Breach Liability.** In the event of any security breach Contractor shall make efforts to investigate the causes of the breach, promptly take measures to prevent future breach and minimize any damage or loss resulting from the breach. The State shall recover from the Contractor all costs of response and recovery from the breach, including but not limited to: credit monitoring services, mailing costs and costs associated with website and telephone call center services necessary due to the breach.
12. Contractor must, comply with all applicable statutes and regulations regarding the privacy and security of Confidential Information, and must in all other respects maintain the privacy and security of PI and PHI at a level and scope that is not less than the level and scope of requirements applicable to federal agencies, including, but not limited to, provisions of the Privacy Act of 1974 (5 U.S.C. § 552a), DHHS Privacy Act Regulations (45 C.F.R. §5b), HIPAA Privacy and Security Rules (45 C.F.R. Parts 160 and 164) that govern protections for individually identifiable health information and as applicable under State law.
13. Contractor agrees to establish and maintain appropriate administrative, technical, and physical safeguards to protect the confidentiality of the Confidential Data and to prevent unauthorized use or access to it. The safeguards must provide a level and scope of security that is not less than the level and scope of security requirements established by the State of New Hampshire, Department of Information Technology. Refer to Vendor Resources/Procurement at <https://www.nh.gov/doit/vendor/index.htm> for the Department of Information Technology policies, guidelines, standards, and procurement information relating to vendors.
14. Contractor agrees to maintain a documented breach notification and incident response process. The Contractor will notify the State's Privacy Officer, and additional email addresses provided in this section, of any security breach within two (2) hours of the time that the Contractor learns of its occurrence. This includes a confidential information breach, computer security incident, or suspected breach which affects or includes any State of New Hampshire systems that connect to the State of New Hampshire network.
15. Contractor must restrict access to the Confidential Data obtained under this Contract to only those authorized End Users who need such DHHS Data to perform their official duties in connection with purposes identified in this Contract.
16. The Contractor must ensure that all End Users:

New Hampshire Department of Health and Human Services

Exhibit K

DHHS Information Security Requirements



- a. comply with such safeguards as referenced in Section IV A. above, implemented to protect Confidential Information that is furnished by DHHS under this Contract from loss, theft or inadvertent disclosure.
- b. safeguard this information at all times.
- c. ensure that laptops and other electronic devices/media containing PHI, PI, or PFI are encrypted and password-protected.
- d. send emails containing Confidential Information only if encrypted and being sent to and being received by email addresses of persons authorized to receive such information.
- e. limit disclosure of the Confidential Information to the extent permitted by law.
- f. Confidential Information received under this Contract and individually identifiable data derived from DHHS Data, must be stored in an area that is physically and technologically secure from access by unauthorized persons during duty hours as well as non-duty hours (e.g., door locks, card keys, biometric identifiers, etc.).
- g. only authorized End Users may transmit the Confidential Data, including any derivative files containing personally identifiable information, and in all cases, such data must be encrypted at all times when in transit, at rest, or when stored on portable media as required in section IV above.
- h. in all other instances Confidential Data must be maintained, used and disclosed using appropriate safeguards, as determined by a risk-based assessment of the circumstances involved.
- i. understand that their user credentials (user name and password) must not be shared with anyone. End Users will keep their credential information secure. This applies to credentials used to access the site directly or indirectly through a third party application.

Contractor is responsible for oversight and compliance of their End Users. DHHS reserves the right to conduct onsite inspections to monitor compliance with this Contract, including the privacy and security requirements provided in herein, HIPAA, and other applicable laws and Federal regulations until such time the Confidential Data is disposed of in accordance with this Contract.

V. LOSS REPORTING

The Contractor must notify the State's Privacy Officer, Information Security Office and Program Manager of any Security Incidents and Breaches within two (2) hours of the time that the Contractor learns of their occurrence.

New Hampshire Department of Health and Human Services**Exhibit K****DHHS Information Security Requirements**



The Contractor must further handle and report Incidents and Breaches involving PHI in accordance with the agency's documented Incident Handling and Breach Notification procedures and in accordance with 42 C.F.R. §§ 431.300 - 306. In addition to, and notwithstanding, Contractor's compliance with all applicable obligations and procedures, Contractor's procedures must also address how the Contractor will:

1. Identify Incidents;
2. Determine if personally identifiable information is involved in Incidents;
3. Report suspected or confirmed Incidents as required in this Exhibit or P-37;
4. Identify and convene a core response group to determine the risk level of Incidents and determine risk-based responses to Incidents; and
5. Determine whether Breach notification is required, and, if so, identify appropriate Breach notification methods, timing, source, and contents from among different options, and bear costs associated with the Breach notice as well as any mitigation measures.

Incidents and/or Breaches that implicate PI must be addressed and reported, as applicable, in accordance with NH RSA 359-C:20.

VI. PERSONS TO CONTACT**A. DHHS contact program and policy:**

(Insert Office or Program Name)

(Insert Title)

DHHS-Contracts@dhhs.nh.gov

B. DHHS contact for Data Management or Data Exchange issues:

DHHSInformationSecurityOffice@dhhs.nh.gov

C. DHHS contacts for Privacy issues:

DHHSPrivacyOfficer@dhhs.nh.gov

D. DHHS contact for Information Security issues:

DHHSInformationSecurityOffice@dhhs.nh.gov

E. DHHS contact for Breach notifications:

DHHSInformationSecurityOffice@dhhs.nh.gov

DHHSPrivacy.Officer@dhhs.nh.gov



Appendix C

Deliverables Schedule and Pricing

| Ref# | Activity, Deliverable, or Milestone | Deliverable Type | Proposed Schedule | Price |
|------|--|-------------------------|-------------------|-------|
| | Project Management | | | |
| 1 | Conduct project kick-off meeting | Non-Software | | |
| 2 | Finalized work plan | Written | | |
| 3 | Daily stakeholder outreach/ interview progress report | Written | | |
| 4 | Weekly project status reports | Written | | |
| | Research | | | |
| 5 | Interview key executive management to gain a strategic view of the agency's mission and program goals. | Written | | |
| 6 | Interview key technology specialists to understand the DHHS system environment and standards. | Written | | |
| 7 | Interview key program business stakeholders to assess current and future business needs | Written | | |
| 8 | Create a process map for current and future workflows. | Written | | |
| 9 | Conduct detailed market analysis, including research of industry standards and possible solutions | Written | | |
| 10 | Interview key technical stakeholders to assess State IT requirements | Written | | |
| 11 | Interview appropriate stakeholders to assess State security requirements | Written | | |
| 12 | Conduct research to determine budget estimates for the implementation of the new BDS system. | Written | | |
| | Presentation | | | |
| 13 | Provide business and technical stakeholders with proposed findings for validation prior to preliminary findings presentation | Written | | |
| 14 | Presentation of preliminary findings | Written Non-Software | | |
| 15 | State acceptance of preliminary findings | Written | | |
| 16 | Delivery of final report | Written | | |
| 17 | Develop budget estimates for the implementation of the proposed solutions. | Written | | |
| 18 | Final reports submitted and accepted by DHHS | Written | | |



| Ref# | Activity, Deliverable, or Milestone | Deliverable Type | Proposed Schedule | Price |
|------|--|------------------|-------------------|-------|
| | Final Reports | | | |
| 19 | Feasibility Analysis Report – The Feasibility Analysis Report shall consider opportunities to leverage the technology investment across three DHHS program areas. The report shall include sections on scope, criteria, evaluation, benefits and risks, conclusions and recommendations. | Written | | |
| 20 | System Requirements Document – formal statement of a system’s business and technical requirements, including, but not limited to: functional process requirements, data requirements, reporting and data access, system interface requirements, non-functional or operational requirements. | Written | | |
| 21 | Project Deliverables and Acceptance Criteria – A document listing the specific, measurable deliverables for implementing the system with | Written | | |
| 22 | Conceptual System Design Document – specifies the construction details of the system, each system component’s interaction with other components and external systems, and the interface that allows end users to operate the system and its functions. | Written | | |
| 23 | Market Research Report – a document featuring the results of market research on potential solutions available in the commercial and public sector market places and an estimated budget. | Written | | |
| 24 | Solution Recommendations - Using the research conducted, provide “build/buy/enhance” analysis including assumptions and constraints. | Written | | |
| 25 | Identify Risks – Provide a list and description of potential risks. | Written | | |

Appendix D Contract Monitoring Provisions

All vendors responding to Department-issued Requests for Proposals (RFPs), Requests for Bids (RFBs), Requests for Applications (RFAs) or Requests for Information (RFIs) must complete and return pages 3 & 4 of Appendix F, as a required attachment.

1. Definitions

- 1.1. Department – NH Department of Health and Human Services (DHHS).
- 1.2. Vendors – non-state agency external entities with which the Department intends to enter into a legal agreement. Component units of the State shall be considered vendors (e.g., UNH, CCSNH).
- 1.3. Subrecipients – vendors issued funds to provide goods or services on behalf of the Department to the public. In accordance with [2 CFR 200.330](#), characteristics which support the classification of a subrecipient include when the non-Federal entity:
 - 1.3.1. Determines who is eligible to receive what Federal assistance;
 - 1.3.2. Has its performance measured in relation to whether objectives of a Federal program were met;
 - 1.3.3. Has responsibility for programmatic decision making;
 - 1.3.4. Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
 - 1.3.5. In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the Department.
- 1.4. Contractors – vendors issued funds to provide goods or services to the Department. In accordance with [2 CFR 200.330](#), characteristics indicative of a contractor are when the vendor:
 - 1.4.1. Provides the goods and services within normal business operations;
 - 1.4.2. Provides similar goods or services to many different purchasers;
 - 1.4.3. Normally operates in a competitive environment;
 - 1.4.4. Provides goods or services that are ancillary to the operation of the Federal program; and
 - 1.4.5. Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

2. Vendor Identification & Risk Assessment

- 2.1. The Department shall identify **ALL** vendors receiving federal, general, or other funds as either a Subrecipient or a Contractor, as defined in Section 1, above and in 2 CFR 200.330.
- 2.2. The Department shall complete a risk assessment of all Subrecipients to evaluate their risk of noncompliance with federal and state statutes and regulations as well as the terms and conditions of the contract.
- 2.3. The Department shall assess vendor risk utilizing multiple factors that include, but are not limited to:
 - 2.3.1. Grant management experience.
 - 2.3.2. Documented history of non-performance or non-compliance.
 - 2.3.3. Audit findings.

Appendix D Contract Monitoring Provisions

- 2.3.4. Recent personnel or system changes.
- 2.3.5. Financial solvency.
- 2.3.6. Adequacy of internal controls.

3. **Contract Monitoring**

- 3.1. The Department shall determine if enhanced monitoring is necessary to address any risks identified through the risk assessment referenced in Section 2, above.
- 3.2. The Department shall incorporate contract monitoring procedures and activities into final contracts to address identified risks, which may include but are not limited to:
 - 3.2.1. Requesting vendors to provide fiscal reports and documentation behind reports to the Department for review.
 - 3.2.2. Reviewing vendor reporting processes and systems for data integrity.
 - 3.2.3. Performing file reviews to ensure vendor compliance with state and federal laws and rules in the administration of the contract.
 - 3.2.4. Conducting site visits to assess vendor compliance with applicable contract objectives and requirements.
 - 3.2.5. Reviewing vendor expenditure details to ensure all expenditures are allowable and in compliance with Federal and State laws and other applicable policies or rules.
 - 3.2.6. Providing targeted training or technical assistance to vendors.
 - 3.2.7. Reviewing monthly financial data to assess vendor financial solvency.
- 3.3. The Department shall conduct contract monitoring activities as specified in resulting contracts.

4. **Vendor Disqualification**

- 4.1. The Department reserves the right to disqualify vendors from selection based on the results of the risk assessment described in Section 2, above.
- 4.2. The Department reserves the right to disqualify vendors who refuse to complete and return the Management Questionnaire on Page 3 and 4 of Appendix F, Contract Monitoring.
- 4.3. The Department intends to only disqualify a vendor who poses an unmanageable degree of programmatic or financial risk that, in the Department's opinion, could greatly inhibit the vendor's ability to execute the provisions of the contract.
- 4.4. The Department considers an unmanageable degree of risk to be present when:
 - 4.4.1. The vendor appears to be financially insolvent based on the Department's analysis of the vendor's audited financial statements.
 - 4.4.2. The identified programmatic risks would, in the Department's opinion, severely inhibit the vendor to execute the contract in accordance with the requirements therein.
- 4.5. In the event that the Department disqualifies a vendor from selection, the vendor shall have no right to appeal the Department's decision. Any review shall be in accordance with NH. RSA 21-G:37, IV.

Appendix D Contract Monitoring Provisions

Management Questionnaire

All vendors responding to Department-issued Requests for Proposals (RFPs), Requests for Bids (RFBs), Requests for Applications (RFAs) or Requests for Information (RFIs) must complete and return this Management Questionnaire.

| | Question | YES | NO | N/A |
|-----|--|------------------------------|-----------------------------|------------------------------|
| 1. | During the past 18 months, have you experienced staff turnover in positions that will be involved in the administration of the contract or MOU? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 2. | Will you subcontract any part of the work that will be required under the final contract or MOU to other entities? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 3. | Have you managed the same or a similar contract or program during one of the last five (5) calendar years? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 4. | Have you received federal funds from DHHS through a contract, MOU, or other legal agreement during one of the last five (5) calendar years? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 5. | Were you ever provided formal written notification from the Department that you were in non-compliance or failed to perform in accordance with contract provisions or requirements? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 6. | Based on your understanding of the future requirements of the contract or MOU, will your organization determine whether individuals, institutions, or businesses will be eligible to receive services or financial assistance? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 7. | Is your organization a for-profit organization, foreign entity, or foundation? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 8. | Was your organization incorporated more than two years ago? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 9. | Did you have an audit performed in accordance with A-133 (Single Audit) standards for your most recently completed fiscal year? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 10. | If you had an audit performed in accordance with A-133 (Single Audit) standards by an external entity or an audit performed by a state or federal agency during the most recently completed fiscal year, did the audit include any findings? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 11. | Has your organization implemented a new accounting, financial, or programmatic IT system within the last two years? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 12. | Are you aware of any ongoing or pending lawsuits filed against your organization? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 13. | Does your accounting system identify the receipt and expenditure of program funds separately by each contract/grant, and by line item categories? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |

Appendix D Contract Monitoring Provisions

| | Question | YES | NO | N/A |
|-----|---|------------------------------|-----------------------------|------------------------------|
| 14. | Do you have procedures to ensure expenditures are reviewed by an independent person to determine that all expenditures are allowable under the terms of the contract as well as federal and state regulations, laws and rules? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 15. | Are time distribution records maintained for each employee performing contracted services that account for time spent working on the contract versus time spent on all other activities? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 16. | Does your property management system maintain a description of equipment, acquisition date, funding source, location and condition? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 17. | Does your financial system compare amounts spent to date with budgeted amounts for each award? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 18. | Does your accounting/financial system include budgetary controls to prevent incurring obligations in excess of total funds available for a grant or a cost category (i.e., personnel costs, equipment, travel)? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 19. | If you intend to subcontract a portion of the work under the resulting contract to another entity, do you have competitive bid procedures for purchases and personal services contracts compliant with state and federal regulations, laws, and rules? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 20. | If you intend to subcontract a portion of the work under the resulting contract to another entity, do you have written policies and procedures for subrecipient/contractor determinations, risk assessments, and subrecipient monitoring as required under Federal Uniform Guidance (2 CFR 200.330 & 331 et. seq.)? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 21. | Does your organization maintain a formal system of segregation of duties for procurement, time keeping, and bank statement reconciliation activities? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |
| 22. | Do you maintain written policy and procedures for all aspects of financial transactions and accounting related to time keeping, a record retention, procurement, and asset management that are compliant with Federal Uniform Guidance requirements (2 CFR 200.300 et seq.)? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |

I hereby declare that the answers provided in the Management Questionnaire of Appendix F, Contract Monitoring Provisions, are accurate and true to the best of my knowledge.

Signature

Printed Name & Job Title

Date